Edward G. Edgerton, to be postmaster at Yankton, in the county of Yankton and State of South Dakota.

John Kellogg, to be postmaster at Reedsburg, in the county of Sauk and State of Wisconsin.

Benjamin Webster, to be postmaster at Platteville, in the county of Grant and State of Wisconsin.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *June 4, 1902.*

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

EXPENDITURES IN CUBA.

Mr. HULL. Mr. Speaker, I am instructed by the Committee on Military Affairs to report back the following resolution and move that it lie on the table.

The SPEAKER. The gentleman from Iowa, by direction of the Committee on Military Affairs, reports back the following resolution and moves that it lie on the table.

The Clerk read as follows:

House resolution 274.

Resolved by the House of Representatives, That the Secretary of War be, and he hereby is, respectfully requested to transmit to this House a detailed and itemized account of the expenditures made by or under the direction or orders of Gen. Leonard Wood, as the military governor of the island of Cuba, during the period of time that such island was under the control of the military authorities of the United States.

The SPEAKER. The question is on agreeing to the motion.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. HULL. Division, Mr. Speaker.

The House divided, and there were—ayes 76, noes 46.

Mr. HAY. Mr. Speaker, on this question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GILBERT. Mr. Speaker, can we have that resolution read over again?

The SPEAKER. Without objection, the resolution will be again reported.

The resolution was again reported.

The question was taken; and there were—yeas 111, nays 80, answered "present" 15, not voting 145; as follows:

YEAS—111.

Alexander,	Davidson,	Kahn,	Rumple,
Allen, Me.	Draper,	Knapp,	Schirm,
Ball, Del.	Emerson,	Lacey,	Shattuc,
Barney,	Esch,	Landis,	Shelden,
Bates,	Evans,	Lawrence,	Sibley,
Beidler,	Fletcher,	Lessler,	Smith, Ill.
Bowersock,	Foerderer,	Littlefield,	Smith, Iowa
Brick,	Fordney,	McCleary,	Smith, H. C.
Bristow,	Foss,	Mann,	Steele,
Bromwell,	Gardner, Mich.	Moody, N. C.	Stevens, Minn.
Brown,	Graff,	Moody, Oreg.	Stewart, N. J.
Burk, Pa.	Graham,	Morgan,	Sulloway,
Burleigh,	Grosvenor,	Morrell,	Sutherland,
Burton,	Grow,	Morris,	Tawney,
Butler, Pa.	Hamilton,	Mudd,	Tayler, Ohio
Cannon,	Haskins,	Needham,	Thomas, Iowa
Capron,	Henry, Conn.	Nevin,	Tirrell,
Connell,	Hepburn,	Olmsted,	Tompkins, Ohio
Conner,	Hildebrant,	Otjen,	Tongue,
Coombs,	Hill,	Parker,	Van Voorhis,
Cooper, Wis.	Hitt,	Payne,	Vreeland,
Corliss,	Howell,	Pearre,	Wachter,
Cousins,	Hull,	Perkins,	Wadsworth,
Creamer,	Irwin,	Powers, Mass.	Wanger,
Curtis,	Jack,	Prince,	Warnock,
Cushman,	Jenkins,	Ray, N. Y.	Watson.
Dahle,	Jones, Wash.	Reeder,	Woods.
Dalzell,	Joy,	Reeves,	

NAYS—80.

Adamson,	Fitzgerald,	Lewis, Ga.	Robinson, Nebr.
Ball, Tex.	Fox,	Lindsay,	Rucker,
Bankhead,	Gilbert,	Little,	Ryan,
Bartlett,	Hay,	Livingston,	Scarborough,
Brundidge,	Henry, Miss.	Lloyd,	Shafroth,
Burgess,	Hooker,	McAndrews,	Sims,
Burleson,	Howard,	McCulloch,	Smith, Ky.
Burnett,	Jackson, Kans.	McLain,	Snook,
Candler,	Jett,	McRae,	Sparkman,
Cassingham,	Jones, Va.	Maddox,	Spight,
Clark,	Kehoe,	Mahoney,	Stark,
Cochran,	Kern,	Mickey,	Stephens, Tex.
Cooney,	Kitchin, Claude	Moon,	Taylor, Ala.
Cooper, Tex.	Kitchin, Wm. W.	Padgett,	Thayer,
Cowherd,	Kleberg,	Patterson, Tenn.	Vandiver,
Crowley,	Kluttz,	Ransdell, La.	Wiley,
Davis, Fla.	Lamb,	Reid,	Williams, Ill.
De Armond,	Lanham,	Rhea, Va.	Williams, Miss.
Edwards,	Latimer,	Richardson, Ala.	Wilson,
Feely,	Lester,	Rixey,	Wooten.

ANSWERED "PRESENT"—15.

Adams,	Deemer,	Metcalf,	Scott,
Brantley,	Griggs,	Minor,	Slayden,
Burkett,	Ketcham,	Naphen,	Wright.
Crumpacker,	McClellan,	Pierce,	

NOT VOTING—145.

Acheson,	Dovener,	Kyle,	Robinson, Ind.
Allen, Ky.	Driscoll,	Lassiter,	Ruppert,
Aplin,	Eddy,	Lever,	Russell,
Babcock,	Elliott,	Lewis, Pa.	Selby,
Bartholdt,	Finley,	Littauer,	Shackleford,
Bell,	Fleming,	Long,	Shallenberger,
Bellamy,	Flood,	Loud,	Sheppard,
Belmont,	Foster, Ill.	Loudenslager,	Sherman,
Benton,	Foster, Vt.	Lovering,	Showalter,
Bingham,	Fowler,	McCall,	Skiles,
Bishop,	Gaines, Tenn.	McDermott,	Small,
Blackburn,	Gaines, W. Va.	McLachlan,	Smith, S. W.
Blakeney,	Gardner, N. J.	Mahon,	Smith, Wm. Alden
Boreing,	Gibson,	Marshall,	Snodgrass,
Boutell,	Gill,	Martin,	Southard,
Bowie,	Gillet, N. Y.	Maynard,	Southwick,
Breazeale,	Gillett, Mass.	Mercer,	Sperry,
Broussard,	Glenn,	Meyer, La.	Stewart, N. Y.
Brownlow,	Goldfogle,	Miers, Ind.	Storm,
Bull,	Gooch,	Miller,	Sulzer,
Burke, S. Dak.	Gordon,	Mondell,	Swanson,
Butler, Mo.	Green, Pa.	Moss,	Talbert,
Calderhead,	Greene, Mass.	Mutchler,	Tate,
Caldwell,	Griffith,	Neville,	Thomas, N. C.
Cassel,	Hall,	Newlands,	Thompson,
Clayton,	Hanbury,	Norton,	Tompkins, N. Y.
Conry,	Haugen,	Overstreet,	Trimble,
Cromer,	Heatwole,	Palmer,	Underwood,
Currier,	Hedge,	Patterson, Pa.	Warner,
Darragh,	Hemenway,	Pou,	Weeks,
Davey, La.	Henry, Tex.	Powers, Me.	Wheeler,
Dayton,	Holliday,	Pugsley,	White,
De Graffenreid	Hopkins,	Randell, Tex.	Young,
Dick,	Hughes,	Richardson, Tenn.	Zenor.
Dinsmore,	Jackson, Md.	Robb,	
Dougherty,	Johnson,	Roberts,	
Douglas,	Knox,	Robertson, La.	

So the motion to lay the resolution on the table was agreed to.

The following pairs were announced:

Until further notice:

Mr. SHOWALTER with Mr. SLAYDEN.

Mr. DAYTON with Mr. DAVEY of Louisiana.

Mr. SOUTHARD with Mr. NORTON.

Mr. LONG with Mr. HENRY of Texas.

Mr. BURKETT with Mr. SHALLENBERGER.

Mr. GILLETT of Massachusetts with Mr. NAPHEN.

Mr. BINGHAM with Mr. CREAMER.

Mr. POWERS of Maine with Mr. GAINES of Tennessee.

Mr. KETCHAM with Mr. SNODGRASS.

Mr. MCCALL with Mr. ROBERTSON of Louisiana.

Mr. HOLLIDAY with Mr. MIERS of Indiana.

Mr. SKILES with Mr. TALBERT.

Mr. GORDON with Mr. SCOTT.

Mr. LOUDENSLAGER with Mr. DE GRAFFENREID.

Mr. GARDNER of New Jersey with Mr. WHITE.

Mr. GILLET of New York with Mr. CLAYTON.

Mr. CALDERHEAD with Mr. ROBB.

Mr. BISHOP with Mr. DOUGHERTY.

Mr. BROWNLOW with Mr. PIERCE.

Mr. HEMENWAY with Mr. ZENOR.

For the session:

Mr. RUSSELL with Mr. MCCLELLAN.

Mr. BOREING with Mr. TRIMBLE.

Mr. YOUNG with Mr. BENTON.

Mr. DEEMER with Mr. MUTCHLER.

Mr. SHERMAN with Mr. RUPPERT.

Mr. WRIGHT with Mr. HALL.

Mr. HEATWOLE with Mr. TATE.

For one week:

Mr. ROBERTS with Mr. BELLAMY.

Mr. CURRIER with Mr. PUGSLEY.

Mr. FOSTER of Vermont with Mr. POU.

Mr. CRUMPACKER with Mr. GRIFFITH.

For ten days:

Mr. WM. ALDEN SMITH with Mr. ROBINSON of Indiana.

Mr. MILLER with Mr. THOMAS of North Carolina.

Mr. DARRAGH with Mr. THOMPSON, until June 9.

For this day:

Mr. WEEKS with Mr. GREEN of Pennsylvania.

Mr. BOUTELL with Mr. GRIGGS.

Mr. METCALF with Mr. WHEELER.

Mr. BABCOCK with Mr. RICHARDSON of Tennessee.

Mr. DICK with Mr. UNDERWOOD.

Mr. TOMPKINS of New York with Mr. SWANSON.

Mr. STEWART of New York with Mr. SMALL.

Mr. WARNER with Mr. SHEPPARD.

Mr. SOUTHWICK with Mr. SHACKLEFORD.

Mr. SAMUEL W. SMITH with Mr. SELBY.

Mr. MONDELL with Mr. RANDELL of Texas.

Mr. OVERSTREET with Mr. NEWLANDS.

Mr. MARTIN with Mr. NEVILLE.

Mr. MARSHALL with Mr. MAYNARD.

Mr. MAHON with Mr. MCDERMOTT.

Mr. LITTAUER with Mr. JOHNSON.

Mr. LOVERING with Mr. LEVER.
Mr. LEWIS of Pennsylvania with Mr. GOOCH.
Mr. KYLE with Mr. GOLDFOGLE.
Mr. KNOX with Mr. GLENN.
Mr. HUGHES with Mr. FOSTER of Illinois.
Mr. HOPKINS with Mr. FLOOD.
Mr. HEDGE with Mr. FLEMING.
Mr. HANBURY with Mr. ELLIOTT.
Mr. GREENE of Massachusetts with Mr. DINSMORE.
Mr. GILL with Mr. CONRY.
Mr. GAINES of West Virginia with Mr. CALDWELL.
Mr. FOWLER with Mr. BUTLER of Missouri.
Mr. DOVENER with Mr. BROUSSARD.
Mr. COUSINS with Mr. BREAZEALE.
Mr. BURKE of South Dakota with Mr. BOWIE.
Mr. BULL with Mr. BRANTLEY.
Mr. ACHESON with Mr. ALLEN of Kentucky.
On this vote:
Mr. JACKSON of Maryland with Mr. BELMONT.
Mr. ADAMS with Mr. LASSITER.
Mr. CROMER with Mr. SULZER.
Mr. MERCER with Mr. MEYER of Louisiana.
Mr. HAUGEN with Mr. FINLEY.
Mr. BARTHOLDT with Mr. BELL.

Mr. GRIGGS. Mr. Speaker, I would like to inquire if the gentleman from Illinois, Mr. BOUTELL, voted?

The SPEAKER. He has not.

Mr. GRIGGS. Then I would like to withdraw my vote of "no" and be marked "present."

The Clerk called Mr. GRIGGS's name, and he answered "present," as above recorded.

Mr. PIERCE. Mr. Speaker, has the gentleman from Tennessee, Mr. BROWNLOW, voted?

The SPEAKER. He has not.

Mr. PIERCE. I desire to withdraw my vote of "no" and be marked "present."

The name of Mr. PIERCE was called, and he answered "present," as above recorded.

Mr. BURKETT. Mr. Speaker, I am just informed that a pair was read between myself and Mr. SHALLENBERGER. I wish to withdraw my vote of "aye" and be marked "present."

The name of Mr. BURKETT was called, and he answered "present," as above recorded.

The result of the vote was then announced as above recorded.

PROTECTION OF THE PRESIDENT.

Mr. RAY of New York. Mr. Speaker, I move that the House now resolve itself into Committee of the Whole House on the state of the Union for the further consideration of Senate bill 3652, for the protection of the President of the United States, and for other purposes.

The motion was agreed to; and accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GROSVENOR in the chair.

Mr. RAY of New York. Mr. Chairman, I now yield to the gentleman from Massachusetts [Mr. POWERS] such time as he desires.

Mr. POWERS of Massachusetts. Mr. Chairman, after listening yesterday to the very interesting and fascinating speech from my distinguished, learned, and lovable friend from Texas [Mr. LANHAM], I could not but feel that the effect of that speech was to cause this House to drift a long way from its original moorings. I could well understand how anyone that was capable of making a speech so interesting, so fascinating, so full of incident and story, could well become the governor of the great empire of the State of Texas, and I regret that my friend should have seen fit to so far limit his ambition as to say that he is not a candidate for the Presidency of the United States. [Applause.]

I can understand perfectly well that while our friends upon the other side are at present casting around for some one to be their standard bearer in the next Presidential campaign, they could not do better than to take the gentleman from the great State of Texas. [Applause.]

I assume that no bill has come before this House at this session which was so strongly backed by petitions from the people as this bill for the better protection of the President of the United States. Directly after the assault upon the President, the arrest of the assassin, and later on, even before his trial, petitions in favor of some national law for the better protection of the President of the United States were put in circulation in every part of the United States. They were not signed, Mr. Chairman, by the unthinking people of this country, but they were signed by the most law-abiding and intelligent citizens of America. They were signed, and very generally signed, by eminent lawyers practicing in the different courts of the different States of the Union. And what did they ask? They asked that this Congress should enact some law which should better protect the Chief Magistrate of this nation.

Now, Mr. Chairman, why were those petitions put in circulation? What was the reason for it? Suppose we examine the reason which actuated American citizens to put in circulation these petitions and send them to their Representatives in Congress. After the assault the assassin was promptly arrested by the officers of the State of New York. Later on, after the death of his victim, he was indicted, brought to a speedy trial, convicted, and he was executed.

Now, mind you, he was indicted because he had violated the laws of the State of New York. He had violated no national law, but he had violated the laws of the State of New York. In other words, President McKinley, as a citizen of the State of Ohio, while stopping in the State of New York, and entitled to the protection of the laws of the State of New York, had been assaulted, and the assault resulted in death. He was arrested because he had assaulted unto death a citizen entitled to the protection of the laws of the State of New York, within the jurisdiction of the courts of New York, and therefore the assassin was arrested and tried and punished.

But, mind you, the assassin had not in mind the death of William McKinley as an individual, or as a citizen. What he had in mind was an attack upon organized society, upon organized government. He bore no malice against William McKinley as a man; he bore no malice against William McKinley as a citizen; but he bore malice against the Government of the United States, and William McKinley stood as the representative of organized government. He sought the destruction of the Government of the United States by the assassination of the chief ruler of the people. He bore not the slightest malice against William McKinley as a man, and when he committed that crime, it was a crime against the Government of the United States, and he was punished not by reason of the crime which he committed and not by reason of the motive which actuated him to commit the crime, but he was punished because it happened that in committing that crime he incidently violated a law of the State of New York.

Now, in violating that law of the State of New York it was a breach of the peace and dignity of that Commonwealth; and yet, as a matter of fact, he did not have in mind the violation of any law of the State of New York. He had in mind a premeditated attempt to injure and destroy the organized government of this country.

Now, at the time of his indictment, and at the time of his trial, the Attorney-General of the United States, the law adviser of the Government, the chief prosecuting attorney of the United States, and also the United States attorney of the district of New York, in which the crime was committed—neither one had the right to go into the courts of New York and take any part either in the indictment or at the trial. If they appeared there at all they appeared there by the courtesy of the law officers of the State of New York, and the Attorney-General has no more right to appear there to take part in the prosecution of one who had attempted to destroy the Government of the United States than any other member of the Pittsburg bar had the right to appear there.

In other words, even though the crime were committed against the Government of the United States, premeditated, possibly as the result of a lot cast that this very assassin should commit that crime, a crime against the Government, a crime against organized society, at the same time that man could not under any law upon the statute book be punished for the crime that he had intentionally committed.

Now, when that situation appeared to the American citizens they said that it was necessary, in their judgment, that some law should be put upon the statute books which should provide for the punishment of those who might attempt to destroy or to weaken the Government of the United States; in other words, they said that when the attack was made upon the sovereignty of this great nation, the nation, through its courts, should have jurisdiction to punish it. And so they put in circulation the petitions which came to us, signed by thousands, in favor of some national law on this subject.

Now, it has been claimed here that the enactment of any law of the kind proposed by the various measures that are now under consideration is an infringement upon the sovereignty of the State. Why so? No State in its sovereign capacity has imposed upon it the duty or the burden of defending the sovereignty of this Government. In other words, when this assassin of President McKinley was punished in the courts of the State of New York he was punished because he had committed an infraction of the laws of that State. He was not punished by reason of the crime that he had committed. In other words, the situation would have been exactly the same if he had committed that crime in the State of Massachusetts (a part of which I have the honor to represent), or if it had been committed within the limits of any other State of this Union. In other words, the only punishment that could

reach this criminal was an incidental punishment, because in attempting to commit one crime he had incidentally committed another crime, and he was punished not for the crime he had committed, but because in committing that crime he had incidentally committed another crime, which was an infraction of the laws of the State.

Now, what I maintain, Mr. Chairman, is this: That the United States Government has the right at all times to maintain its sovereignty; that it has the right at all times to punish those who attempt to destroy this Government. But at the present time there exists no law by which this great nation can punish the offense, if the crime is committed outside of the District of Columbia and the other Territories not embraced in the States of the Union.

Now, the people of this country said—and they had a right to say it, and they had the right to insist upon it—that this Congress should take this matter into consideration, and that inasmuch as the Constitution had conferred upon the Congress of the United States the power to make all proper and necessary laws, this was a proper and necessary law for Congress to make; in other words, that it was proper and necessary for Congress to enact a law by which any attempt to destroy Government should be punished.

I want one thing distinctly understood—and I call the particular attention of my friend from Texas to this point—that we are not attempting to legislate against crimes committed upon an individual. What we are undertaking to reach is the crime committed upon organized government, just as the crime which led to the death of President McKinley was a crime against the Government, not a crime against the individual.

Now, in our attempt to frame this law, we bring before the House for its consideration a bill which seeks to protect the Government of the United States. It does not in any way interfere with the sovereignty of any State. It does not undertake to take away from any State the rights which exist now under the sovereignty of the various States to which this act applies. The sovereignty of the United States is in the people of the United States.

This is a nation which is operated and maintained by law. We have nothing in this country in the nature of a ruler by inheritance or by "the divine right of kings." The people in this country rule, and the sovereignty of the United States, as has been so well expressed by the distinguished chairman of the committee that has this bill in charge, extends over every foot of soil in the United States. And wherever that sovereignty goes there Congress has the right to enact whatever laws may be necessary for the maintenance of that sovereignty against the interference or attack of anybody and everybody.

Now, what do they seek to do? We undertake to say that whoever anywhere within the jurisdiction of the United States undertakes to take the life of the President when he is in the discharge of his official duty, or by reason of his official capacity, or by reason of the omission or commission of an official act, commits a crime against the Government of the United States.

Does that interfere with State sovereignty? Does anyone claim that the attempt to protect the Government in the orderly operations of the machinery of government is an interference with the sovereignty of any State? I fully agree with my friend from Texas [Mr. LANHAM] that if an assault be committed upon the President of the United States while he may be temporarily sojourning in the State of Texas, that crime will be punished under the laws of the State of Texas. But what is the crime that will be punished under the laws of the State of Texas? Is it the crime of attempting to destroy the National Government? Not at all. It is the crime of having committed an assault, a felonious assault, upon a citizen of the United States, while he is in Texas and under the protection of the laws of Texas. That right remains with you after the passage of this bill, except you may say that the remedy under this law exhausts the remedy which you have, but which accomplished the same effect, and even if we do not take advantage of this law, it would still be left for the State of Texas to administer its own laws and to punish the crime which had been committed against its own laws. And so I say that the passage of this bill in no way trenches upon the sovereignty of any State.

Now, it is a mooted question which has been discussed here, and discussed most interestingly, as to how far the United States Government has a right to protect its officers, whether in the discharge of duty or not. I take the position, which is entirely in accord with the position taken yesterday by the chairman of the committee, that our right to protect the officers of the Government means our right to protect them while in the discharge of duty. In other words, the United States Government is to-day operated through the agency of officers and men. It can not be operated in any other way. We have a right to protect this Government in its existence. We have a right to protect it in the operation of its laws, and so long as we protect this Government in its maintenance and its operation, then we go as far as we have the right to under the sovereignty which exists under the Constitution of the United States. In other words, suppose this case: Suppose that President McKinley had been in New York and had not been in the performance of any duty, that he had been assaulted by one who did not assault him as the President of the United States, but who assaulted him by reason of some old feud that had existed long before he became President of the United States.

That assault would not be an assault upon the Government of the United States; it would be an assault upon William McKinley as an individual and a citizen, and the laws of the State of New York would punish that assault and punish it to the extent to which it was entitled to be punished; but I can not agree with my friend from Texas [Mr. LANHAM] that the people of this country have no greater interest in their chief ruler than they have in any other citizen, because the interest of 80,000,000 of people in the President of the United States is not an interest in the President of the United States as an individual; it is an interest in the President of the United States because he is Chief Executive of the United States and a part of the machinery of government. We protect him not as an individual; we protect him because he is Chief Executive of the nation; we protect him and seek to protect him because in protecting him we protect the Government of the United States, and that is the distinction between the protection of the President of the United States as a President and the protection of the President of the United States as an individual.

I understand that there are those in this House, possibly members of the committee that report this bill, who believe that we have the authority under the Constitution to go much further than this bill goes. There are those, for whose opinions I have the highest regard and esteem, who claim that we have the right under the constitutional power which is vested in Congress to protect the President as a citizen, whether in the discharge of his duty or not; but to my mind that is not necessary for the purposes of this legislation. We are attempting to protect the President of the United States. We do not seek by this law to protect any citizen of the United States as such. We undertake to say that anyone who attempts to interfere with the existence of government or anyone who attempts to interfere with the operations of government interferes with the sovereignty of the country. This bill does not seek to punish anyone who commits an assault upon any Federal officer so long as he commits that assault upon the Federal officer when he is not in the discharge of duty and not by reason of any Federal act which he has performed or failed to perform.

Mr. SCOTT. Will the gentleman permit a question?

Mr. POWERS of Massachusetts. Certainly.

Mr. SCOTT. Does this bill contemplate such an act as an assault upon the President at a time when he may not be engaged directly or indirectly in the discharge of his public duty, and yet when such an assault might be made for the reason that he was the Chief Executive and was the President of the United States?

Mr. LITTLEFIELD. Certainly; in terms.

Mr. RAY of New York. Certainly; it says so in terms.

Mr. SCOTT. Does it in such event protect the President?

Mr. LITTLEFIELD. Yes.

Mr. POWERS of Massachusetts. The bill is drawn so broadly that it protects the President not only when in the discharge of his official duties, but by reason of his official position, and more than that, it goes to the extent of inquiring into the very motive which actuates the attack. Now, I can conceive a case of an assault upon the President of the United States that might not come within the provisions of this bill; but at the same time that assault would not in any way be an assault upon the Government of the United States. By that I mean that it might grow out of a personal feud between the President and some one, and the assault would have no relation whatever to the official connection which the President had with the Government of the United States.

Mr. CRUMPACKER. Will the gentleman allow a question?

Mr. POWERS of Massachusetts. Yes.

Mr. CRUMPACKER. The gentleman is making a very interesting and instructive speech; but if the death of the President resulted from an attempt on the part of some one to commit robbery in one of the States while the President was not engaged in some official act, the offender would not be liable to prosecution under this law, as I understand it.

Mr. RAY of New York. Why, yes; he certainly would be.

Mr. CRUMPACKER. Is it the view of the gentleman from Massachusetts [Mr. POWERS] that he would not be?

Mr. POWERS of Massachusetts. No; that is not my view. That must come with all kinds of qualifications.

Mr. CRUMPACKER. I want to get at a case of this kind: The gentleman just said that he could conceive a case where an assault might be committed upon the President of the United

States when he was not engaged in his official duty, when the law under consideration would not apply because the attack would not be upon the Government. That is correct, is it not?

Mr. POWERS of Massachusetts. I think that statement should be made with this limitation, on the assumption that there might be times when the President of the United States, under a fair construction of the law, is not engaged in the performance of official duty.

Mr. CRUMPACKER. Now, is not the President of the United States President at all times during his constitutional period, without regard to what he is doing?

Mr. POWERS of Massachusetts. If that be true, that he is President at all times, and if it be true, as the gentleman states, that the assault is committed while he is President and is in the performance of his official duty, then it comes within the provisions of this bill.

Mr. CRUMPACKER. Suppose he be not, in the sense of this law, in the performance of an official duty, and is not assaulted because of his official character or because of some official act; then I want to know whether the gentleman believes that the offense would come within the purview of the pending bill?

Mr. POWERS of Massachusetts. Upon that assumption I should say that we could assume an offense that would not come within the provisions of the bill.

Mr. CRUMPACKER. Now, let me ask the gentleman another question. Is it not an offense against the Federal Government, an embarrassment of its operations, to take the life of the President of the United States at any time, without regard to the purpose or provocation of the act?

Mr. POWERS of Massachusetts. There is no question but that. It is an interference with the operations of the Government.

Mr. CRUMPACKER. And have we not the power to prevent by penal laws that sort of interference?

Mr. POWERS of Massachusetts. I will say to the gentleman from Indiana that that brings us to the very threshold of that question on which lawyers disagree. Now, all the adjudicated cases would undertake to say that when we undertake to protect the officers of the Government while in the discharge of their official duties and by reason of their official character, when the attack is not made upon them with a view of interfering with the operations of government, that then we have gone to the full extent that we can go.

Mr. THAYER. Mr. Chairman, will the gentleman allow a question?

The CHAIRMAN. Does the gentleman from Massachusetts yield to his colleague?

Mr. POWERS of Massachusetts. I do.

Mr. THAYER. I do not wish to interrupt the gentleman to any great extent, because I am fully in accord with the spirit of this bill; but I want to ask the gentleman this question: I understand that authority is claimed for this bill because these assaults are attacks upon the sovereignty of the Government. Otherwise we would have no right to go into the States to punish criminals. Now, there are three classes of persons here pointed out, the President, the Vice-President, and foreign ambassadors and ministers. I want to ask the gentleman if he thinks that an agent representing a foreign country or government, coming here in the interest of that government and that country, is a part of the machinery of this Government to such an extent that we can punish those who make assaults upon him as well as we can upon the President and Vice-President of the United States?

Mr. POWERS of Massachusetts. Why, it strikes me, Mr. Chairman, that this case comes fairly within the law, which clearly defines our relations with friendly powers having ambassadors and ministers here, and while they are here they are a part of this Government and are entitled to the same protection as is the President of the United States.

Mr. RAY of New York. If the gentleman will permit me, the Constitution of the United States expressly says that the Congress shall have power to define and punish offenses against the law of nations, and in United States re Arzona it is declared by the Supreme Court under that clause that we have the power to enact criminal laws protecting aliens when in the United States.

Mr. THAYER. But, assuming that to be a fact, would it not still be necessary to protect those within the President's Cabinet?

Mr. RAY of New York. Why, we have that provision in this bill, and if the gentleman would only take the time and take the bill and read it he would see that it not only protects the President, the Vice-President, but also other officers entitled under the law to succeed to that high office. That is in the bill in express terms.

Mr. POWERS of Massachusetts. I understand it can well be argued that this bill is limited, and that it ought to include not only the President and those in line of succession, but possibly other officers of the Government. Now, of course there ought to be a limit to the protection. and this thing can well be borne in mind, that when we introduced this bill it was for the purpose of protecting the Government against those who believed in individual liberty to that extent that no government ought to exist at all, and you will find that the history of anarchists has been an effort to take the life of the chief ruler. That has been true when they attempted to take the life of the Czar of Russia, and to take the like of the Emperor of Germany, or the king or queen of this country or that country; and they do it upon the principle that if they destroy the head of the government, they are more likely to cripple the operations of government. Now, I want to say just one word concerning the third section—I think it is the third—which provides for the protection of ambassadors and ministers accredited to this country.

Mr. LACEY. Mr. Chairman, I would like, before the gentleman passes from the President, to ask a question.

Mr. POWERS of Massachusetts. I would be very glad to answer it.

Mr. LACEY. Take the specific case of the assassination of President McKinley. Of course in that case the assassin, by his subsequent confession, says that his purpose was to kill the President because he was the President. Supposing he was mute; the question then would be that he simply killed the President. Would not this bill fail to protect? He was simply at a public meeting, an exposition, holding a reception of his friends, not performing the duties of the President of the United States, but at a social gathering. Now, would not this bill entirely leave him out of its protection or that protection which is given him in the performance of official duty?

Mr. POWERS of Massachusetts. No, sir. I will state to the gentleman from Iowa that he by all fair interpretation was engaged in the performance of official duty. He was invited to the exposition as the President of the United States; he accepted that invitation as President of the United States; he was giving a reception to the people as President of the United States, and when the assault was made upon him he was known to be the President of the United States. But even if that had not been so, we have so drawn this bill that we have put the presumption in favor of the Government and the burden upon the defendant to show that he did not have that in mind when he made that attack. I think this bill is very well safeguarded along that line. Now, coming to the protection——

Mr. CRUMPACKER. Before leaving that, take the case of President Lincoln. He was attending a theater at the time of his assassination. Supposing, now, he had been assassinated under those circumstances, and that the assassin had been able to prove that he committed the act on account of some personal grievance against him, the bill under consideration would not have provided any punishment for that man.

Mr. POWERS of Massachusetts. I can imagine a case which would not come within the provisions of this bill.

Mr. CRUMPACKER. In the case stated hypothetically.

Mr. POWERS of Massachusetts. I do not think you included all the limitations that ought to be included.

Mr. CRUMPACKER. While he would not be engaged in the performance of any official duty.

Mr. POWERS of Massachusetts. By reason of the fact that he is the President of the United States and the fact of the civil war, which possibly might influence the assassin——

Mr. CRUMPACKER. Eliminate all those aspects, then your bill would not cover the case.

Mr. POWERS of Massachusetts. The bill would not cover the case except the act was committed in the District of Columbia, and would come by that reason under the exclusive jurisdiction of the United States.

Mr. CRUMPACKER. That is a matter of accident only. Let me ask another question. Was President Lincoln, in the opinion of the gentleman, engaged in the discharge of the duties of his office at the time he was in attendance at Ford's Theater on the occasion of his assassination?

Mr. POWERS of Massachusetts. I should doubt if it could be construed that he was in the performance of his official duty.

Mr. CRUMPACKER. I agree with the gentleman.

Mr. POWERS of Massachusetts. Now, I want to say, Mr. Chairman, that I would gladly support a bill which protected the President from assault whether in discharging his duty or not. My sympathy is in that direction, and if I could reach the same conclusion that possibly the gentleman from Indiana may have reached, and that is that the law ought to go to that extent to protect the President as President, whether in the performance of his duty or not, and go to the extent of protecting the President whether the motive of committing the assault was by reason of any official act or not, I gladly would go to that extent. But on a close examination of the adjudicated cases, it seems to my mind clear that the court has drawn a marked distinction between the sovereignty of the nation and the sovereignty of a

State, and that we can not go beyond that mark without infringing upon the sovereignty of the State, which was so ably defended by my friend from Texas [Mr. LANHAM] yesterday.

In other words, when we seek to protect the Government outside the operations of the Government, then we infringe upon the sovereignty of a State where the constitution has vested the authority for the punishment of offenses of that kind. But if it be the judgment of this House that we can go to the extent of protecting the President as such whether or not in the discharge of his duty. I will gladly support that bill. I wish to say to my friend from Indiana that I reluctantly came to the position that we were bound to keep within the limit so forcibly expressed by the chairman yesterday. If you will allow, let me recall your attention to the message by President Harrison, I think in 1889, when he called upon the Congress of the United States to enact some law for the better protection of the Federal officers, confining that protection to them while in the discharge of their official duty. And the same has been true in every one of these cases. Take the Nagel case, the Siebold case, the Fisher case, the Tennessee or Davies case, and in every one of these cases the court has drawn that distinction between the exercise of the sovereignty of the United States and the exercise of the sovereignty of the State.

Mr. RAY of New York. And, if the gentleman will permit me, whenever the Congress of the United States, commencing back in 1790, immediately after the adoption of the Constitution, when it commenced, as it did in that year, to enact law for the protection of the officers of the Government, it read that condition into the law, engaged in the execution of their duties, showing their understanding of the limitations upon the power of Congress, and it has been carried into every act since without an exception. It is in every decision where the courts have construed the statutes and in every decision of the courts where they have defined or prescribed the criminal jurisdiction of the United States independent of a statute.

Mr. POWERS of Massachusetts. And if, Mr. Chairman, I may be permitted once more to refer to the provisions in the Constitution, the language is, "Congress may enact all laws that may be proper and necessary." Now, the question is, who are to be the judges of what laws are proper and necessary? I assume that judgment is vested in Congress; but it is limited, and it must be, to the law that is necessary and proper for the protection and enforcement of the sovereignty of the nation. It may not go beyond that extent, and if it be not necessary and proper that we should protect the President as an individual, when the motive for the attack or the assault upon him in no way depends upon or is based upon the fact that he is the Chief Executive of the nation, or by reason of any act that he has committed as Chief Executive of the nation, we must stop at that point,

I would gladly, as I have said, go to the full extent of giving the most ample protection that Congress has the right to give under the authority of the Constitution. Now, I want to say a word with reference to the criticism that was made yesterday by my friend from Texas [Mr. LANHAM] upon the third section of this bill, which seeks to extend the same protection to ambassadors and ministers accredited to this country and residing herein.

When this matter came up for consideration before the committee, I think that I had the honor of suggesting that as an amendment to the original bill. I did that for this reason. We were seeking to protect against the anarchists—what we call anarchists—we were seeking to protect the Chief Executive of the nation and those in the line of succession.

In other words, we did not go outside of the protection of the President and those that might be called upon to act in his place in the case of his removal. But it seemed to me that it was but gracious and proper that we should also protect the official heads of the different countries at the capital of this nation, and particularly so since the last sovereign that had fallen by the hand of the anarchists in the Old World appeared, by undisputed evidence, to have fallen by reason of a plot upon our own soil, and we could not do much less than to say that while we were protecting our President against the red-handed assassin that had struck down a sovereign of Europe, it was only right and proper that we should protect the official heads of foreign nations while they were under the protection of the United States Government; and I believe the members of the House will generally agree with that proposition.

When my friend from Texas [Mr. LANHAM] took up the Congressional Directory yesterday and read over the names of certain official representatives of the South American republics, giving to those names that peculiar pronunciation of the Spanish dialect which no man save one who had resided in a State where the Spanish language was originally spoken could have given, he said, "Why should we protect Señor So-and-so and Señor So-and-so and not protect the Speaker of this House?" I did not understand whether in saying that my friend went to the extent of saying that he stood prepared to protect the representatives of the great monarchies, but would not protect the representatives of the little struggling Republics in South America.

Mr. LANHAM. Will the gentleman allow me?

Mr. POWERS of Massachusetts. Let me finish the statement, and then I will yield.

I assume that the gentleman used that language in a purely Pickwickian sense. I know him so well as to know he has no sympathy with the monarchies of Europe and that he has all kinds of sympathy with the little republics of South America. I assume that he brought out this suggestion in order to show that there is no reason why we should protect these officials who represent these small nations that have no particular importance in the diplomatic circles in Washington.

Now I will yield to the gentleman.

Mr. LANHAM. It was not my purpose in the least to draw any such distinction as the gentleman suggests, but simply to show that we ought to be as good to our own officials in this Government as we are to the representatives of alien countries.

Mr. POWERS of Massachusetts. I did not assume that the gentleman had any such motives as he has now disclaimed, but I meant to affirm that in our diplomatic relations we can not recognize the great monarchies of Europe without recognizing and protecting the representatives of the little republics of the earth. We have got to treat them all alike. In other words, they stand as peers in the realm of the diplomatic circles here at Washington. Now, I want to say one word with reference to one provision in this bill which in my mind is not sufficiently drastic. I refer to the provision that wherever an assault is made upon the President of the United States with an intent to take his life it shall be punished by imprisonment, and imprisonment only. It seemed to me at the time this bill was under consideration in committee that whenever an assault is made upon the President of the United States, with a deliberate and premeditated purpose to take the life of the chief ruler of the people, the punishment ought to be death; and I suggested at the time—and it is my purpose when this bill comes up under the five-minute rule to offer an amendment—that wherever an assault of this kind is committed upon the President of the United States it shall be punished either by death or by imprisonment for life, as the jury trying the case may recommend.

I can understand perfectly well that there may be an assault made upon the President of the United States which will absolutely incapacitate him for the further performance of his duty, but he may survive the attack—may linger on for years; that blow has had its purpose and has incapacitated him for the performance of any further duty, yet under the provisions of this bill the punishment in such a case is to be only imprisonment—imprisonment for not less than twenty years. I feel that the jury should have the right to take into consideration all the circumstances under which the act was committed; that they should have the right to take under consideration the extent of the injuries inflicted, and if they see fit to recommend punishment by death that they should have the right to recommend such punishment.

Now, Mr. Chairman, I want to say one word with reference to the Senate bill. I firmly believe that the House bill is a far better bill than the Senate bill. I trust that this House will substitute the House bill for the Senate bill. I believe there are important questions of constitutional law connected with many of the provisions of the Senate bill, and which are of such a nature that we can not with safety pass that bill. It is not necessary that this House should undertake to pass a bill so drastic as to be pronounced unconstitutional. We can protect the operations of the Government and keep well within our constitutional limits, and I feel that this House bill should for that reason be substituted for the Senate bill.

There is one provision of the Senate bill which has caused more or less discussion throughout the country, and, so far as I know, has been received with some favor. It is the provision that the Secretary of War shall detail a bodyguard from the Regular Army for the protection of the President. Now, I want to say that this idea, though it may be novel, did not originate with any member of Congress, either of this branch or the other. That idea originated some time in the early part of the year, and first appeared in an address delivered by a very learned and scholarly gentleman, who is a judge of the circuit court in the first district, in an address delivered before the bar association of the State of New Hampshire. He undertook to demonstrate in that address that we can, by providing a bodyguard, absolutely protect the President of the United States; and he referred, by way of example, to the provisions which are made to protect the sovereigns of the different nations of Europe.

Now, if we have come to that point where we are going to undertake to legislate for the absolute protection of the person of the President, there are other and better ways to legislate than by guard system proposed under the provisions of the bill. Why, we might go to the extent of saying that the President during his

term of office should live in a fortress surrounded by soldiers; that no one should have access to the President but trusted subordinates, and that they should be searched before they enter therein. My friend, I think it was, from Maine [Mr. LITTLEFIELD] suggested that we might go to the extent of having a little fortress or castle upon wheels, which could be moved throughout the country like a cage, for the protection of the President.

To my mind the whole idea is un-American and uncalled for. I do not expect that if this bill, if enacted into a law, is going to have weight only by reason of the penal statutes that it contains, but it is going to have its moral force upon the American people. It is going to be an expression of the public opinion of this country that the people believe in stamping out anarchy and in stamping out every sentiment in favor of the forcible overthrow of the Government of the United States or the government of any country. It stands as an expression of public opinion, and, Mr. Chairman, what is the foundation of the Government of this nation but the expression of public opinion? Why, our Federal Constitution and the constitution of every State in this Union can be changed, directly or indirectly, through the ballot box. The people are sovereigns. If they want to change their Constitution, they have got the right to do it. If they want to change the constitution of any State, they have the authority, through the ballot box, acting either directly or indirectly, to change it; and they can change every constitution, every Federal statute, and every State statute through the power which they have in the manhood suffrage which exists in every State in this Union.

Now, it is not so in the case of the countries across the sea. In England the landed estates have controlled the politics of that country for six centuries. Not so with us. We have no property qualification and we have no educational qualification in any State excepting a few, and there the educational qualification is one which a schoolboy of 10 years of age could easily comply with. Why, when these anarchists talk about the forcible overthrow of government they do not take into consideration that this Government exists at the pleasure of the people, and whenever the people want to change this form of government they have the right and authority to do it. Whenever they want to change our Constitution they may do it.

Whenever they want to change any law they may do it, and the people, it seems to me, in this country have demanded that there shall be a law—a law, not only because it will have its effect by reason of the penal elements that the law will contain, but because it will go upon our statute books as the public expression of 80,000,000 of people that they will not entertain and they will not harbor a sentiment that looks to the forcible overthrow of the Government of the people, and that is exactly where we stand on this proposition. We say that there is not the slightest reason to suppose that these anarchists or nihilists, as they were formerly called, who fifty years ago came into existence in Russia under a form of oppressive government, are going to get a foothold in America. Why, our public-school system will sooner or later overthrow them. Public sentiment will overthrow them. Last year the United States expended for the free compulsory education of its children more money than was expended by Great Britain, Germany, France, Spain, Italy, and Belgium combined. What does that mean?

It means that the Government of the United States stands prepared to educate an intelligent citizenship, and an intelligent citizenship knows that the highest personal liberty must exist in a good government; that a good government is that government which takes from no individual any more of his rights and privileges than are absolutely necessary for the protection of his life, his liberty, and his property. I trust, Mr. Chairman, that the bill which has been framed by the House committee, with all its safeguards, with all its provisions—that of looking after immigration—with its provisions for undertaking to ferret out this sentiment against government wherever it exists, and, more than that, with its provisions carried to that extent that they will accomplish the purpose and at the same time do not interfere with the liberty of speech or with the liberty of the press, will become a law.

In a few years from now we will look back upon this scene and will regard it a remarkable circumstance that after more than a century of free republican government in America Congress was forced to take into consideration the enactment of law to better protect its chief ruler against assassination by those who would strike him down in the name of liberty.

The country to-day simply asks this Congress to put upon the statute books some expression of the sovereignty and the will of the people, which they ask shall be enforced to its farthest for the protection of our institutions, for the protection of freedom and liberty, and for the advancement of mankind. [Applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. VAN VOORHIS having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills and joint resolution of the following titles; in which the concurrence of the House of Representatives was requested:

S. 5491. An act granting an increase of pension to John R. Sandsbury;

S. 2295. An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes; and

S. R. 111. Joint resolution limiting the gratuitous distribution of the Woodsman's Handbook to the Senate, the House of Representatives, and the Department of Agriculture.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 9597. An act for the relief of Thierman & Frost; and

H. R. 720. An act for the relief of Lieut. Jerome E. Morse.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 11249) granting an increase of pension to Katharine Rains Paul.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 312) providing that the circuit court of appeals of the eighth judicial circuit of the United States shall hold at least one term of said court annually in the city of Denver, in the State of Colorado, or in the city of Cheyenne, in the State of Wyoming, on the first Monday in September in each year, and at the city of St. Paul, in the State of Minnesota, on the first Monday in June in each year.

PROTECTION OF THE PRESIDENT.

The committee resumed its session.

Mr. RAY of New York. I now yield to the gentleman from Pennsylvania [Mr. MORRELL] five minutes.

Mr. MORRELL. Mr. Chairman, the provisions of this bill may be divided into two classes, those that provide for the punishment of the overt act, both in the case of the principal and in the case of his accessories, and those which are framed to prevent the repetition of the crime that resulted in the death of the late President William McKinley.

To my mind the people of the United States are most concerned in those provisions which prevent the repetition of such a crime.

No one can possibly find fault with the speedy and dignified manner in which the officials of the State of New York visited justice upon the assassin of our late President.

Special inquiry from those who are conversant with the methods employed in Europe against the so-called party of anarchists, and consultation with lawyers of eminence in this country who have given this subject a great deal of thought, have resulted in my coming to the conclusion that special legislation against the possibility of a recurrence of a crime of this kind, except in the case of persons who are considered of unsound mind, is injudicious, and it is unwise to admit the possibility of the existence of such a class of people under the freedom and liberty which is guaranteed by the Constitution of the United States.

No one will deny for a moment or would take exception to the statement that anyone holding what are called extreme anarchistic views is a person of unsound mind. I do not refer to those who are attracted by such doctrines simply from the honor and eclat that they might get, or from the possible benefits that might accrue to them. But I do feel that it is only proper to consider those persons who enunciate anarchistic doctrines as persons of unsound mind. I therefore give notice of and ask unanimous consent to have printed in the RECORD an amendment which I propose to offer at the proper time, on page 5, section 8, after line 22, striking out all to the bottom of the section and inserting a paragraph which shall read as follows:

That any person who advocates—

And so forth—

shall, upon conviction by the proper court, thereafter be considered a dangerous lunatic, and his property shall become subject to the courts which administer the estates of persons of unsound mind.

Nobody wants to be considered of unsound mind, and in my judgment no greater punishment could possibly be imposed upon an individual for any crime than to class him and to incarcerate him among a body of men who really are lunatics, as a dangerous lunatic. Even those that we meet in insane asylums are actuated as their principal object to try to explain that they are of sound mind and not of unsound mind. I therefore feel that we could not impose a greater hardship or a more severe punishment upon those who express doctrines which every one of us believe to be the emanation of an unsound mind than to incarcerate them in an insane asylum.

I ask unanimous consent to have this amendment printed in the RECORD.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to print in the RECORD an amendment which he proposes to offer at the proper time. Is there objection?

There was no objection.

The amendment is as follows:

On page 5, line 22, strike out all after the word "act" and insert the following:

"Shall, upon conviction by the proper court, thereafter be considered a dangerous lunatic, and his property shall become subject to the courts which administer the estates of persons of unsound mind."

Mr. LANHAM. I yield one hour to my colleague on the Committee on the Judiciary, the gentleman from Wisconsin [Mr. JENKINS].

Mr. JENKINS. Mr. Chairman, some legislation on the subject now before the House is demanded by the people—not as a matter of sentiment, but as a matter of right and justice. The demand is not limited by geographical, political, or religious lines. It is not a sectional demand, but a call from all parts of the nation: from all classes; from the people to their representatives for full national legislation on this subject, and the unanimity shown with reference to it is the highest evidence that the people believe this to be a nation with national powers, having a Congress willing to execute the will of the people to the utmost of its constitutional powers and write into the statute book their express wishes in this regard.

That reconciliation has been brought about between all sections of the nation, and any attack upon the nation will conclusively show not only that the people are united in their love of country, but that the attack will be resented by all its citizens, and the blood of the people will quicken in defense of the nation, whether the heart beats in the cold blasts of the North or under the sunny skies of the South.

Measures of this kind show the difficulty of legislation. At the opening of this Congress the average person throughout the country was of the opinion that any bill presented on the subject would pass not only early but without opposition, but when the practical work commences the opposition and difficulties appear.

Discordant elements are expected to present a united front. Report a bill sufficient in law and detail for the purpose intended and to satisfy an expectant public, but at the threshold we are met with the question of want of power in Congress, the wisdom or need of the legislation if the power exists, and a compromise must be reached of such extreme views that will permit of united action.

I accord to all those who oppose my views honesty of purpose and as devoted to our common country as I am. Neither do I question their judgment or motive, and I know that they honestly and firmly believe themselves right, as I do.

I do not question the loyalty of those who represent a constituency that believe in the doctrine of State rights. Neither do I question the loyality of the constituency they represent. I simply think they are wrong on this great question, and firmly believing in the loyalty of the people of the South, I am convinced that they will insist that their representatives should contend for and support the doctrine that this National Government has the power to punish the person taking or attempting to take the life of the President of the United States, and that Congress should exercise the full limit of that power without limitation, condition, or qualification.

So that my views may be better understood, I desire to refer to what I have heretofore said as to the proper relations between the several States and the General Government:

Long since the people of the reconstructed States became reconciled to the restoration of their States to their constitutional relations to the Union, and from the close of the war there was never any doubt in the minds of the patriotic, liberty-loving Union people of the United States but that the people of the reconstructed States wanted to return to their political duty as citizens of a common country and do their best to make this nation all our forefathers intended it should be, but were prevented from making it by causes forcing themselves upon the convention. We are now in truth and in fact a reunited people, a nation composed of the several States of the Union, and the time has come in American history when the distinction between Federal and State rights should no longer exist, but all should be classed as citizens of the United States cooperating for the common good, recognizing the just powers of the nation and the constitutional rights of the several States, without any intention to impair the one or invade the other.

Much work remains to be done. These questions can not be settled as long as the people are sectionally divided. Sectionalism must never return. It is our duty to-day to do all we possibly can to prevent it. Earnest efforts must be continued for the upbuilding of the nation for the common good of all. Keeping steadily in mind the equality of the States and equality of all before the law, allowing each elector and each State to exercise constitutional rights without force or denial, answerable to a higher power and intelligent surroundings, peace and prosperity will be with us as a nation. (June 1, 1898, CONGRESSIONAL RECORD, Fifty-fifth Congress, second session, vol. 31, part 6, p. 5404.)

Mr. Chairman, I do not think any apology is necessary from anyone who desires to support a measure that will protect the life of the President of the United States; but I do not want any gentleman here this morning to think that I am fully in accord with the views of the gentleman from Texas simply because we, who from a high sense of duty are compelled to oppose the House bill, are also compelled to go to the Democratic side of this Chamber to obtain recognition to express to this House our views on this great question.

I speak this morning from a high sense of legal and representative duty. If I did not feel this question very keenly, I would not occupy the time of this House in discussing this question; but having been assigned, under the rules and procedures of this House, to the committee that reported this measure, I feel it to be my duty to bring to this House all the experience I have obtained as a member of this committee, to assist this House and the country in regard to this question, whether it is in accord with the views of the majority of the committee or not.

As I say, if I did not feel it to be a sense of duty I would not take the time of this House in discussing this question. As I understand the question here to-day, so far it has not been presented to this House on constitutional or legal grounds, and so far as the report of the committee is concerned, I stand alone. But I want this House and the country to understand that the views I express are peculiar to myself. I do not want them to understand that so far as the report of this committee is concerned it is sustained by a single member of the committee.

But I believe, Mr. Chairman, that I am right, and I want it distinctly understood that while I stand alone here so far as this question is concerned, I am standing here and taking the time this morning in the interest of the Republican party, and I am standing here also in the defense of national power, and standing here this morning in defense of the power of Congress. I am in favor of legislation expressive of the powers of Congress sufficient to satisfy the urgent demands of the people without being rash, extreme, or radical, not doing to-day what the country to-morrow will disapprove of.

But, Mr. Chairman, the bill under consideration does not come up to my expectations. It does not represent my views; it does not represent a single principle of the Republican party, not a single one. It has absolutely denied to this great representative legislative power the powers that the Constitution has conferred upon it, and it tends expressly to limit the powers and impair the powers of the nation.

The bill does not go far enough, according to my views of this question. Failing to go far enough in one direction, so far as upholding the full and just powers of this Government are concerned, it starts off in another direction and adopts, in my judgment, unconstitutional measures. It also adopts measures that are extreme, and, while they might be constitutional, are absolutely unnecessary. There has been so much discussion in regard to the powers of government since this bill came before the House on yesterday that we might almost understand that there is no national government.

Now, I want it distinctly understood, so far as I am concerned, that I am not satisfied with it, but I believe this House when it becomes familiar with the measure will not approve of this bill. The Republican party, by their representatives here assembled, can never afford to give their approval to it by their votes—no person can deny to-day but what we have a national government. I want to refer to the Articles of Confederation and the Constitution of the United States as expressive of the power to-day of this Government.

The opening words of the Articles of Confederation, that were in force in this country prior to the adoption of the Constitution, read as follows: "Articles of Confederation and Perpetual Union;" and conclude with these significant words, "fully and entirely ratify and confirm each and every of the said Articles of Confederation and Perpetual Union."

The opening words of the Constitution of the United States are as follows:

We, the people of the United States, in order to form a more perfect Union.

Here, Mr. Chairman, we have the significant statement in the Articles of Confederation and the Constitution of the United States that we have a "perpetual union" made "a more perfect union," and there ought no longer to be any question about the powers of this nation.

But conceding at the outset, for the purpose of this discussion, that we have a dual system of government—and no one appreciates the situation more fully than myself; that we do have a dual system of government—a government of the States and a government of the United States. I am willing to concede with my learned friend from Texas that the Federal Government is a government of limited powers. If you want to find out whether or not the Federal Government can exercise a power, you have to resort to the Constitution of the United States in order to determine whether or not Congress can act. I do not disagree with some of the statements made by my friend from Texas, and while I disagree largely in some matters, I want to say to this House, inasmuch as the gentleman said on yesterday that this was possibly his last speech in this House, as he expects to go to his State and perform State duties, that we never had an abler, a more honest, intelligent, or a more conscientious man on the floor of this House than the gentleman from Texas [Mr. LANHAM].

And when he spoke against this bill he spoke from the bottom

of his heart as one of the greatest and closest friends that President McKinley ever had. Do I not remember well that, sitting with the gentleman from Texas [Mr. LANHAM] and the late President McKinley, as he was calling attention to the fact how fast the members of Congress they had associated with were passing away, the tears came into the eyes of my friend from Texas when those two able men were discussing the fact that they were almost left alone? We did not think then that within a few short days the hand of the assassin would remove the late President McKinley and leave my friend from Texas practically alone.

I think I have a right at this time to say these few words in indorsement of my friend from Texas, and I know it pained his heart to antagonize this bill, simply from the fact that he loved—absolutely loved—the late President McKinley, and would go further than any other man I have met to do honor to his memory. But as we start into this important discussion we are confronted with the old doctrine and the old question of State rights.

I know there has always been, and there always will be, gentlemen of different minds on this great question. I have no fault to find with my friend from Texas [Mr. LANHAM] for his views raised in the atmosphere of State rights; but when the gentleman from New York [Mr. RAY] and his Republican colleagues deny to this National Government the power of protecting the President of the United States at all times and under all circumstances, I disagree with them.

I think I have a right to exercise my judgment as a Representative on this floor in regard to this question. I have no words with my Democratic friend, who has been raised and educated to the belief that the States are more powerful than the National Government, but I have no sympathy with my Republican colleagues who will join in the doctrines and policies of the gentleman from South Carolina, the late John C. Calhoun, and deny the Congress of the United States to-day the power under all circumstances and at all times to protect the President of the United States.

No one can justly charge me with desiring to uphold the nation at the expense of the State, or of impairing the power of the State as the same existed when the Federal Constitution was adopted, or with any desire of interfering in any manner with the rights and liberties possessed by the people before the adoption of the Constitution, strengthened by the adoption of the Constitution. My colleagues on the Judiciary Committee, and particularly the gentleman from Texas [Mr. LANHAM], will have to defend me in this proposition, that I have always believed in the doctrine that the police power of this Government should be exercised by the States and never should be divided, and I uniformly have stood upon that position.

I am absolutely and utterly opposed, as I have said, to impairing the powers of the nation, and also to invading the just powers of the State. But, Mr. Chairman, there is a vast difference between taking away the just powers of the State, or encroaching upon their rights and prerogatives, and exercising the constitutional power of Congress to make it a crime to murder the President of the United States. We are not standing here to-day, as my very able and ingenious friend from Texas would have you understand, to distinguish one man from another. That is not our position. That is not our doctrine. We are simply standing here to-day in defense of the constitutional right and power of Congress.

Mr. LIVINGSTON. Will the gentleman allow me an interruption?

Mr. JENKINS. Yes, but my friend will have to get a little nearer, for I can not hear him.

Mr. LIVINGSTON. I understand my friend to say that he is in favor of the States exercising all the police powers under the Constitution. I would like to ask him if he voted for the oleomargarine bill? [Laughter.]

Mr. JENKINS. Mr. Chairman, I do not want to be interrupted by any silly question, and I think I am justified in making that reply to the gentleman from Georgia. I want to say that if anyone has any question he desires to ask with reference to the matter under discussion, I will gladly yield.

Now, Mr. Chairman, I was about to say, when interrupted by my friend from Georgia, that it is impossible for Congress to-day to take away any of the power of the States. There is no attempt on the part of gentlemen advocating this bill, whether we agree or disagree, with reference to its various provisions, to take away the just powers of the State.

The only power the Federal Government has got to-day it derives from the Constitution created by the State, and if we want to exercise a power to-day which we do not enjoy under the Constitution we have got to go to the several States and obtain from them the necessary power, or it does not exist. But it is more appropriate now than at most any other time for us to remember that we are not State rights men. We are not Federalists, we are American citizens, conceding to the States every power that they enjoyed and have never parted with; and, on the other hand, it is our bounden duty to uphold every power possessed and enjoyed to-day by the Federal Government.

We are not seeking to take away any power of the State. We are seeking to-day to exercise the just and constitutional powers of Congress, trying to supplement the power of the State in the suppression of crime. Now, I want to direct a few moments to the report of the committee, or perhaps to the remarks of the gentleman from New York [Mr. RAY] that found expression in the report of the committee.

Mr. BARTLETT. Mr. Chairman, may I ask the gentleman a question in reference to this bill?

Mr. JENKINS. Certainly.

Mr. BARTLETT. I want to know if he agrees with the gentleman from New York in reference to his argument as to the right to protect the President, why should the law be extended down and include all the different heads of departments that may succeed to the Presidency? If the argument of the gentleman from Wisconsin is correct for the purpose of protecting the President, why go farther down the line?

Mr. JENKINS. If my friend will bear with me a few moments I think he will understand my position. I can not make my speech all in one minute. But I will say to my friend from Georgia that so far as concerns the question which he has just suggested, I disagree entirely with the report of the House committee. I think there is a limit, and if the gentleman from Georgia will read the substitute which I propose to offer it will be discovered that I am in accord with his views.

Mr. LITTLEFIELD. The gentleman says he "thinks there is a limit." Will he be kind enough to state what he thinks the "limit" is?

Mr. JENKINS. Well, my dear friend, I can not make all my argument at once.

Mr. LITTLEFIELD. If you have the full control of your intellectual faculties, there is no reason why you should not answer the question.

Mr. JENKINS. I will answer, I think, in the course of my remarks, to the satisfaction of the gentleman from Maine.

Now, Mr. Chairman, in order to simplify this matter, I will ask that there be read in my time a bill that I have introduced which expresses my views on this question.

The Clerk read as follows:

A bill (H. R. 14695) for the protection of the President, Vice-President, and any person acting as President of the United States.

Be it enacted, etc., That every person within the United States or any place under the sovereignty of and subject to the jurisdiction of the United States who knowingly, willfully, and maliciously kills or attempts to kill the President of the United States or the Vice-President of the United States, or any person acting as President of the United States pursuant to the Constitution and laws of the United States, shall suffer death.

SEC. 2. That every person within the United States or any place under the sovereignty of and subject to the jurisdiction of the United States who aids, abets, causes, procures, commands, or counsels another to kill or attempt to kill the President of the United States, or the Vice-President of the United States, or any person acting as President of the United States pursuant to the Constitution and laws of the United States, shall suffer death.

SEC. 3. That every accessory to any one of the offenses mentioned in this act shall, upon conviction thereof, be punished by imprisonment at hard labor not more than twenty years.

Mr. JENKINS. Now I will yield for the question of the gentleman from Maine.

Mr. LITTLEFIELD. This bill of the gentleman does not provide for the protection of officers who are in the line of Presidential succession?

Mr. JENKINS. No, sir.

Mr. LITTLEFIELD. Are we to gather from the gentleman's statement that he does not think we have the power to protect those officers, or that he simply believes it is not politic to undertake to do so? I only wish to understand the gentleman's legal position.

Mr. JENKINS. I will say to my friend that the bill which I have just had read goes to the very extreme limit.

Mr. LITTLEFIELD. So that, if I understand the gentleman correctly, we have not, in his opinion, the power to protect the officers in the line of succession farther than provided in the bill?

Mr. JENKINS. In other words, the bill just read is expressive of the full power of Congress in this respect.

Mr. LITTLEFIELD. And if we undertake to exercise the power to protect the officers in the line of succession, such a bill, as I infer from the trend of the gentleman's argument, would, in his opinion, be an infringement of the powers of the State? That is the gentleman's proposition, is it not?

Mr. JENKINS. Just so far as their relation to the Presidency is concerned. I do not want to have that matter confounded with the other proposition.

Mr. LITTLEFIELD. Then when we come to the case of an officer in the line of succession, the terrible bugbear of State rights intervenes and prevents Congress from taking cognizance of those officers. Is not that the result of the gentleman's proposition?

Mr. JENKINS. Well, I can not make my whole argument now, but I want to have it understood that there is a distinction in my mind between the other officers of the Government and those in the line of succession. That distinction I will try to make clear as I proceed.

Mr. BARTLETT. Are we to understand that the gentleman from Wisconsin [Mr. JENKINS] proposes at the proper time to offer the bill just read as a substitute for the bill of the committee?

Mr. JENKINS. I do.

Now, Mr. Chairman, I was discussing the position taken here, I may say, under the leadership of the gentleman from New York [Mr. RAY]. That will better express the idea than anything else I could say. What I understand is that the majority of this committee—every gentleman of the committee except the gentleman from Texas and myself—insist that Congress has no power to punish offenses against officers of the United States, unless engaged in the performance of official duties, or because of their official character, or because of official acts done or committed.

Now, here is where I divide with the learned chairman of my committee. My insistence is, as I have said and will endeavor to make clear, that the Congress of the United States has express power under the Constitution of the United States to protect the President of the United States at all times, asleep or awake, whether he is in the discharge of his official duties or doing duties that are nonofficial, without qualification, without limitation, and without resorting to all of the uncertain language of the bill. And I want also to call attention to the fact that the gentlemen who are supporting——

Mr. RAY of New York. Mr. Chairman, may I ask my colleague a question?

The CHAIRMAN. Does the gentleman yield?

Mr. JENKINS. Certainly.

Mr. RAY of New York. Supposing the President of the United States should so far forget himself—just suppose a case——

Mr. JENKINS. I wish to state to the gentleman, Mr. Chairman, that this time must be given to me if he wants to take up my time.

Mr. RAY of New York. Certainly; but I want to ask the gentleman this question: Supposing that the President of the United States should so far forget himself some time—our present President would not, but some might—that he should go up to Chicago, a wicked city, and go out with the boys, incog, disguised, get full, nobody knowing he was President, nobody knowing who he was or anything about him, and suppose he gets into a fight in some low-down saloon, and some fellow, angered at him, because of something he does there, kills him. Do you think that the Federal jurisdiction is so broad that it may in that case take hold of the offender and punish him, based on the simple fact that this man—the President, in fact, incog, and in that place, under these conditions—was slain by somebody in a petty quarrel?

Mr. JENKINS. Mr. Chairman, I want to say to my friend that the American people have never yet and never will elect a man that will so lower himself, and I regret that the chairman of this committee has ever asked such an unreasonable question to bear out his views.

Mr. RAY of New York. There you have it. I knew that the gentleman would dodge the question.

Mr. JENKINS. I will not dodge the question, but I have a high respect——

Mr. RAY of New York. Just answer the question.

Mr. JENKINS. I have a high respect for the President of the United States.

Mr. RAY of New York. Then answer the question.

Mr. JENKINS. I would not answer any question that so disgraces the high office of the President of the United States.

Mr. RAY of New York. That is not an answer to the question.

Mr. JENKINS. If I do not answer it to the satisfaction of the gentleman from New York, before I get through I will answer it to the satisfaction of the country, but I will not answer any question that so lowers and disgraces the high office of the President of the United States. [Applause.]

Mr. RAY of New York. Yes; that is just it. That presents simply the proposition——

Mr. JENKINS. Mr. Chairman, I want protection.

The CHAIRMAN. The committee will be in order.

Mr. RAY of New York. And the gentleman declines to answer it?

Mr. JENKINS. I will not answer anything so disgraceful and so disrespectful.

Mr. RAY of New York. Because the gentleman can not answer it, and does not dare answer it.

Mr. JENKINS. Now, Mr. Chairman, I want to say in defense of that position that the American people, while they may divide politically, have never made any mistake as far as the high character was concerned of the Presidents of the United States. I want to tell you all the way down through they have been men that will always live in the history of this country. I am going to get along, and I want the gentlemen present to understand that if there is any gentleman on this floor who wants to ask a question that has any merit in it, any decency in it, or any intelligence in it, I want to answer it, and I stand here prepared to do it; but I do not propose to stand here and be charged with cowardice and inability to answer a question that is asked me here simply because I refuse to answer it on the ground that it is disrespectful to the highest office the people of the United States enjoy.

Mr. RAY of New York. Then let me ask the gentleman——

Mr. JENKINS. Mr. Chairman, I want protection.

Mr. RAY of New York. Now, Mr. Chairman——

Mr. JENKINS. I want to be permitted to make my argument.

The CHAIRMAN. Does the gentleman from Wisconsin yield?

Mr. JENKINS. Certainly not.

Mr. RAY of New York. The gentleman just said he would; he just said that he would answer any questions.

Mr. JENKINS. Mr. Chairman, when I have got to go to the Democratic side of this Chamber for an opportunity to present my views on the question I do not want to waste my time on the gentleman from New York. [Laughter.] It is the first and only time I have ever had to go to the Democrats for a favor, and if it had not been for the gentleman from Texas [Mr. LANHAM] I would never have enjoyed the opportunity of addressing the House on this occasion.

I was saying, Mr. Chairman, when I was interrupted, that the Judiciary Committee has confounded this whole question. It has placed the President in the same category as a deputy marshal, and I want to ask any gentleman here who honored the chairman of my committee yesterday by listening to his address, if the chairman of this committee or any gentleman who has addressed the House so far on this question referred to the Constitution of the United States? Not a word of it.

They never referred to the Constitution of the United States, but absolutely ignored it, and that is the source of our power. As I have said, if we do not find the power in the Constitution of the United States, then Congress has no power to act. But they ignored that and never paid any attention to it.

And, as I say, they have placed the President of the United States, with his great duties under the Constitution, in the same category as a marshal or a deputy marshal of the United States, confounding the whole subject and mystifying it, if it is possible to mystify it, from the language used.

I want to notice the inconsistencies as presented here by my learned friend from New York [Mr. RAY] and as supported by the report of the committee, which I understood he drew. The position of the gentlemen who oppose me is that any bill of this character is absolutely unconstitutional unless it provides, with all of these qualifications, for the killing of the President. In other words, it is unconstitutional to provide in general terms for the killing of the President of the United States.

Mr. LITTLEFIELD. May I beg the gentleman's pardon?

Mr. JENKINS. Certainly.

Mr. LITTLEFIELD. I think that possibly inadvertently the gentleman stated his proposition wrongly. He did not contemplate any bill that provides for the killing of the President, but he contemplates a bill that prohibits the killing of the President. Inadvertently he stated it the other way.

Mr. JENKINS. Of course, the gentleman takes a contrary view of this question from myself, and so I am not surprised when he does not agree with me.

Mr. LITTLEFIELD. Inadvertently, perhaps, you stated your proposition wrongly. You refer to the bill as providing for the killing, but what you mean is a bill that prohibits the killing. Am I not correct about that?

Mr. RAY of New York. I think not, because the whole argument is based upon the other proposition.

Mr. JENKINS. Mr. Chairman, I should like to be protected against the gentleman from New York for a few minutes. I listened to him for pretty nearly three hours yesterday without interrupting him, and unless he has a sensible, reasonable question to ask, I want to ask him not to interrupt me.

Mr. LANHAM. We are engaged in the business of protection here, and so the gentleman ought to be protected. [Laughter.]

Mr. JENKINS. It does not make any difference whether I misspoke myself or not. I meant to speak correctly; but I think my friends around me will appreciate that it is very difficult to discuss a great legal and constitutional question like this with constant interruptions and irrelevant questions. But I understand my friends to argue that it is unconstitutional to pass a bill in general terms providing for the protection of the President of the United States, and that in order that Congress may protect the President there has to be qualifying words in the bill; that is, that you must kill him when he is engaged upon some official duty, or you must kill him because of his official character, or because of some official act or omission.

And yet at the same time my friend from New York [Mr. RAY] argued yesterday—and I want to call him my friend notwithstanding his opposition to me—that the President is always in the discharge of his duties. Now, when I first came to Washington to attend the opening of this session of Congress, one of the ablest men in this country came to me and said, "I understand you are interested in this question, and I want to tell you that the President is at all times in the discharge of his duties." We had a controversy, and only a few days ago he sent me a note to say, "I have reconsidered that doctrine and I join you in what you said, that it is nonsense to argue that the President of the United States is always in the discharge of his duties." The President of the United States is no more always in the discharge of his duties than any other official, and I do not propose to rest this great power on the narrow doctrine that the President of the United States is always in the discharge of his official duties.

But my friends opposed to me go further, and while they insist that he is always in the discharge of his duties, the report says, although my friend did not discuss it yesterday, that the courts would always hold that he is always in the discharge of his duties, a position which is not true. But he goes further than that, and then introduces what is called section 13 in the bill changing the order and burden of proof. And the other day when he was assaulting me for taking away the right of trial by jury, when he was standing here saying that he always stood in defense of the liberties of the people, I wanted to ask him why he wanted to change the organic law of this country and say that for the purpose of protecting the President of the United States we will wipe out a rule that has been observed by all civilization, changing the rule and saying the burden is upon the defendant to exonerate himself.

The section does not help it. But look at the inconsistency of the position: First, that it is necessary to introduce qualifying words into the bill; second, that the courts will always hold that the President of the United States is at all times in the discharge of his duties; third, that if there is any attempt when he is not in the discharge of his duties we can not protect him; fourth, that we have introduced section 13, and by it have said as a matter of law that the President of the United States is always in the discharge of his duties. I want to say to my genial and able friend from Texas——

Mr. LITTLEFIELD. At the risk of not putting a proper question—I do not want to disturb the gentleman, but I would like to have the gentleman examine that section 13——

Mr. JENKINS. I can not discuss this whole question at once. I am coming to it.

Mr. LITTLEFIELD. Right on the point you are discussing. I understand you state that that section stands as a presumption of law.

Mr. JENKINS. I have not come to that, and if I do not answer the point you have in your mind before I get through, you please call my attention to it.

Mr. LITTLEFIELD. The gentleman at the present referred to that section.

Mr. JENKINS. Oh, no; you are wrong.

Mr. LITTLEFIELD. Now the gentleman is discussing——

Mr. JENKINS. The gentleman proposes to apologize for the bill?

Mr. LITTLEFIELD. The gentleman need have no apprehension of any apology the gentleman will make.

Mr. JENKINS. I have none. Before I get through I will come to that section.

Mr. LITTLEFIELD. The gentleman knows I am not responsible for that section. Before you get through I wish you would be kind enough to call the attention of the committee to the language that makes it a presumption of law that is not refutable, that the President is always in the discharge of official duty.

Mr. JENKINS. If my friend had listened to the argument of the gentleman from New York, or only read it, as I have, he would have discovered from his statement that it is a presumption of law.

Mr. LITTLEFIELD. I discovered it was a presumption of fact, and that is refutable. Discuss it right now and answer it.

The CHAIRMAN. Does the gentleman yield to the gentleman from New York?

Mr. RAY of New York. The gentleman must not misrepresent "the gentleman from New York."

Mr. JENKINS. I will state to the gentleman from New York that I want to be permitted to discuss this question.

Mr. RAY of New York. But the gentleman from Wisconsin——

Mr. JENKINS. I decline to yield to the gentleman from New York. I can not stand here——

Mr. RAY of New York. But, Mr. Chairman——

The CHAIRMAN. The gentleman from Wisconsin declines to yield.

Mr. RAY of New York. That all may be, but he must not misrepresent "the gentleman from New York."

The CHAIRMAN. But the gentleman declines to yield.

Mr. JENKINS. I listened for three hours to the gentleman from New York yesterday as he misrepresented the law, and I want to be permitted the same latitude. [Laughter.]

Now, then, Mr. Chairman, with these preliminary remarks, I want to call attention to the fact that in this great discussion one of the most important questions that ever came before this House, that no gentleman has yet discussed, is the powers of Congress; and that is what I propose to call attention to. As I have said, I concede a dual system of government. I concede with my friend from Texas that if Congress wants to exercise a power it must resort to the Constitution of the United States to determine the right to exercise the power; and therefore I am going to call attention now to this constitutional question.

I want to do it, because my friends who are standing here in support of this bill have entirely and absolutely ignored the Constitution of the United States, and have said that they rest their positions upon the decisions of the Supreme Court of the United States. I want to say here with respect to their statement, and I do not want to insult any gentleman, that if you look until you are so old you can not see you will never find a single parallel case; you will never find a case decided by the Supreme Court of the United States, or any other court, holding that Congress can not pass a law to protect the President of the United States.

The cases that they state are mere ropes of sand, and I propose in my brief argument to call attention to the point plainly and so pertinently that every gentleman will concede that on this question those who rely upon the decisions of the Supreme Court of the United States have got no foundation whatever.

I propose, instead of giving decisions of the Supreme Court of the United States, to invite the attention of the House upon this question to the Constitution of the United States as to the powers of Congress. I concede, and want it understood, that my position is that every power is expressed, every power is enumerated, and that the power that I am insisting upon is not only expressed, but broad enough to protect us and to justify my position. Now, then, look at the powers conferred upon Congress with reference to this officer.

I have not time, Mr. Chairman, to enter into a discussion of where the line of demarcation should be drawn between the President of the United States and the smaller officers so numerous in the United States. I am only contending to-day and undertaking to justify this position, that the Congress of the United States has got ample, expressful, and plenary power to protect the President of the United States if he is shot down ruthlessly in any State of this Union without reference to the powers of the States or the rights of the States.

I do not want to go so far and be so extreme that I can not get my Democratic friends to stand on my platform. I propose to be absolutely fair in my legal position here. I think that every gentleman, no matter what his views may be with reference to State rights or Federal powers, can all agree upon this great proposition.

But I want to invite attention now to the powers of Congress. Among the enumerated express powers conferred upon Congress is to raise and support armies, to provide and maintain a Navy, and to make rules for the government and regulation of the land and naval forces. I want to invite attention to the Constitutional power conferred upon the President of the United States so as to distinguish that high and great office from a deputy United States marshal.

The Constitution of the United States confers upon the President of the United States the following enumerated express powers: First, he is Commander in Chief of the Army and Navy. He has the exclusive power over and control of the Army and Navy, so extensive that when war is declared Congress can not stop the war only by refusing appropriations. The President and Senate can, by treaty, stop the war. The President of the United States is also required to give opinions in writing; he has the power to reprieve and pardon; he has the power to make treaties, nominate officers, give information to Congress, and even to adjourn Congress, receive ambassadors and ministers, see that the laws are faithfully executed, and commission all officers of the United States.

Now, then, passing that, Mr. Chairman, and coming down to another provision of the Constitution, which was briefly referred to by my friend from Massachusetts [Mr. POWERS], Article I, section 8, subdivision 18, says:

> To make all laws that shall be necessary and proper to carry into execution the foregoing powers and other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

This is a very comprehensive provision. What did Chief Justice Marshall say with reference to this great provision of the Constitution? In the case of McCullough against Maryland (4th of

Wheaton, p. 360), in order to determine as to the power of Congress in this regard: "Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional."

One of the greatest men that ever sat in this House, John Randolph Tucker, of Virginia, wrote a work on the Constitution of the United States that ought to be read by every lover of government; and what did that great man say with reference to this provision and with reference to this opinion of the great chief justice of his State? I appeal to my Democratic friends to consider what that jurist said with reference to this provision, because it will help them in the discharge of their great political duty now.

He said that this canon of construction is not in the interest of strict construction but a fair and liberal one. This will be found in his work on page 361.

Now, I want to say to my friends who are doing me the honor of listening to me on this occasion that if you want to find out whether Congress can act you must resort to the Constitution of the United States to find whether any power is conferred on an officer of the Government, upon any department of Government, or upon the Government of the United States, or upon the Congress of the United States. It is worth while to reread Article I, section 8, subdivision 18 of the Constitution:

> To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by the Constitution in the Government of the United States or in any department or officer thereof.

Let us go back a very little and see, Mr. Chairman, as to the power of Congress. That power which I have just read is the general power which authorizes Congress to make all details necessary to make every one of the powers in the Constitution operative and effective. I say that because I do not think there is any gentleman on the floor of this House, I do not care how democratic he may be, I do not care how much he may be wedded to the State rights doctrine, but at the same time he has got a kindly feeling for the power of the Federal Government. and he knows that it must be exercised, and that at times it ought to be exercised. I think I might say in passing now, Mr. Chairman, that we are not trying to usurp any powers of the State. Whatever we are doing here to-day is in obedience to the power and demand of the people of this nation.

I know that when I left my home every Democrat, every Republican, every Catholic, and every Protestant demanded of me that I do what I could to have Congress pass some legislation to protect the life of the President of the United States, and when I first had the pleasure of meeting one of my colleagues, Mr. BROWN of Wisconsin, he said to me that the last and practically the only word that was sent to him by his people was to defend the dignity and the power of the Federal Government to protect the President of the United States, and I know to-day——

Mr. BARNEY. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman yield?

Mr. JENKINS. I yield to my friend from Wisconsin.

Mr. BARNEY. Mr. Chairman, I am fully in sympathy with my colleague in his desire to make this measure as strong as possible for the protection of the President, but the Constitution provides that the executive power shall be vested in the President, and then defines his powers. Later it provides that the judicial power of the United States shall be vested in the Supreme Court and other inferior courts, etc. I am quoting only from memory.

Now, then, is there any difference, so far as the principle is concerned, in the officers of the court and in the President? While the duties of the office of President may be more multitudinous and more important, are they different in principle from those which are discharged by any other officers of the Government? I would like to have it clearly pointed out, so that I may see why the President is entitled to absolute protection at all times different from other United States officers, particularly the officers of the Federal courts.

Mr. JENKINS. Mr. Chairman, while it may compel me to digress a little from my argument, I will endeavor to answer the question of the gentleman from Wisconsin, because I think he is a thoughtful and reflective and careful gentleman, and he has asked this question from the very purest and best of motives. There is, as I have tried to point out since I commenced this argument, a vast difference under the Constitution of the United States between the President of the United States and a deputy marshal of the United States. The President, as I have just been reading, has large constitutional powers conferred upon him, and one of these minor officers is never mentioned in the Constitution of the United States. I can not quote with any more accuracy than can my friend from Wisconsin what the Constitution says with reference to the Supreme Court, but I know that it is general in language.

Mr. BARNEY. But while the officers of the court are not mentioned, yet when the court is established and when the Constitution provides that the judicial power shall be vested in the Supreme Court and other inferior courts, that necessarily implies the judges and marshals and other officers of the courts, so that they are really as much constitutional officers as the President or any other officer named.

Mr. JENKINS. Mr. Chairman, my friend from Wisconsin is legally right, as far as that is concerned, but there is a vast difference under the Constitution between those officers. The only reference that the Constitution has in respect to the Supreme Court is to the Supreme Court as a body, and not with reference to any individual, and I think before I get through this branch of it I will have satisfied my friend from Wisconsin and any other gentleman who has the same trend of thought, for there is no more thoughtful or reflective man on this floor than my friend from Wisconsin.

I invite attention again to the Constitution of the United States, because, as I have said, all powers that we exercise must be derived from that great instrument; and when we are asked to exercise a power the only question that confronts us is whether we can find that power in the Constitution of the United States.

Now, go back a little. We find first an express power conferred upon the Congress of the United States to raise and support armies. Now, the general provision to which I have invited attention confers upon Congress absolute power to make all laws necessary and proper to make that provision effective; and the great Chief Justice says, in order to determine that question ask yourself the question, Is the end legitimate? Is it within the scope of the Constitution? And if so, all means are appropriate.

Now, if we have power to raise and support armies, have we not power to protect them? There is not a word said in that great instrument with reference to the color of the clothes, the quality of the clothes, or what we shall feed the soldiers. Every one of those details has to be ascertained from the general clause to which I have invited attention. But the power exists to raise and support armies. The other general power is that Congress shall have all power necessary and proper to make that great power effective.

How can it be effective unless we can legislate so as to make it effective? The Constitution says that the President shall be the Commander in Chief of the Army and Navy of the United States. If we have power to feed the Army and Navy, if we have power to protect them, I want to ask why it is that we have not power to protect the head of that great army? We have power to provide and maintain a navy. We have power to make rules for the government and regulation of the land and naval forces. If we have power to make laws regulating the government of the Army and Navy, can we not include, under that definition of the great Chief Justice, the power to protect the President of the United States, who, by the Constitution, is the head and Commander in Chief of the Army and Navy of the United States?

And when we get down to those distinctive powers that the Constitution confers upon the President of the United States—and I will just take one or two, in order to save time—it will appeal to any gentleman on this great question that I am right. One of the first provisions of the Constitution is, as far as the powers of the President are concerned, that he shall be the Commander in Chief of the Army and Navy of the United States. Take the general power providing for the details of legislation, which says that the Congress of the United States shall have all power necessary and proper to carry into execution that great power.

Are you going to argue that you can provide as to the numerical strength of the Army, as to what they shall eat, as to what they shall drink, as to what they shall wear, and to who shall officer them, and then deny to the Congress of the United States the power to protect the life of the Commander in Chief of that great Army and Navy? And yet under the leadership of the Republican wing of my great committee they say that this Government has not the power to protect the life of the great Commander in Chief of the Army and the Navy of the United States unless he is killed under certain conditions mentioned in the bill, to which I will refer later.

Mr. BELLAMY. May I ask the gentleman a question?

Mr. JENKINS. Certainly.

Mr. BELLAMY. Do you take the position that if the President of the United States, who is Commander in Chief of the Army, leaves Washington on a hunting expedition and goes down to Currituck Sound, as Grover Cleveland did, and takes along with him a party of friends, and is assaulted on the duck-hunting expedition, that it is competent for Congress to give him greater protection while duck hunting than it is for Congress to give General Corbin, who goes along with him?

Mr. JENKINS. Well, I am very glad my friend from North Carolina has asked me that question, because it gives me an opportunity to express my views on that subject. I want it distinctly understood that whether it is Grover Cleveland, whom my friend from North Carolina dislikes, or whether it is William McKinley, whom my friend from North Carolina absolutely worships, if I read the Constitution of the United States rightly, and if my judgment is worth anything, the President of the United States can be protected by the Congress whether he is Grover Cleveland or whether he is William McKinley. [Applause.]

That is my position, and I do not want any mistake about it. I am insisting upon the full powers of the Congress and I am trying to relieve the position that my Republican friends have gotten into because they read too much of John C. Calhoun and too little of William McKinley. Now, as I was saying, when you go back—and I want particularly to answer the question of my colleague from Wisconsin [Mr. BARNEY], because that question is full of meat, as I appreciate. I say that the President of the United States has great constitutional powers conferred upon him, separate and distinct from the powers conferred upon Congress to raise and create and maintain the Army and the Navy.

When we look into the Constitution of the United States we find the great powers conferred. Finding them conferred, we resort to that other clause of the Constitution which says that Congress shall have the power to make all laws necessary and proper to make that power effective. How can it be made effective, I ask my friends, I ask the people of this country interested in this great question, how can you make it effective if people can at liberty shoot down the Commander in Chief of the Army of the United States and assassinate him at all times and under all circumstances? How can you make it effective?

In a little time your Army will be wiped out. If you can provide enough numerical strength for the Army, you certainly, without any great violation of the Constitution of the United States, can find power conferred to protect the life of the President.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LANHAM. Mr. Chairman, I will yield further time to the gentleman from Wisconsin.

Mr. JENKINS. I will not abuse the concession of time.

Mr. LANHAM. I yield sufficient time to the gentleman from Wisconsin to conclude his remarks.

The CHAIRMAN. The gentleman from Wisconsin.

Mr. JENKINS. As I have been saying, the gentlemen on the floor of this House, whose views I oppose, rely upon opinions delivered by the Supreme Court of the United States. And I desire to refer to the fact that I have been emphasizing the position that the gentlemen opposed to me have absolutely ignored, the Constitution of the United States, the fountain of all of our power, and have insisted that they are relying upon certain decisions of the Supreme Court of the United States to sustain their contention that Congress has not the power to legislate generally, but must, if they legislate at all, introduce qualifications and limitations, which I am insisting are absolutely ineffective, and as I have publicly stated that no case can be found to sustain their contention that the question we are now considering has ever been before the courts or the country, that it is absolutely a question of first impression, and as they have ignored the Constitution and seem to rely upon the Federal cases, I will briefly refer to those cases for the purpose of demonstrating what I am insisting upon, that no case can be found having any relation to the question under consideration.

You can not cull out certain general expressions and use the same for the purposes of argument. In the 182 United States, on page 258, the Court, in speaking upon this question, said: "General expressions in an opinion must be taken in connection with the case in which they are used. Courts are not bound by any part of an opinion not needful to the ascertainment of the question between the parties." In other words, if there are any general expressions in an opinion not necessarily involved in the determination of the cause, the same can not be considered as authority.

Now, take the principal cases referred to. One of the cases strongly relied upon by the gentleman from New York is that of the United States *v.* Cruikshank et al (92 U. S., 542). The defendants in that action were indicted for conspiracy under the sixth section of the act of May 30, 1870, known as the enforcement act (16 Stat. L., 140). There were 32 counts in the indictment. In short, the law under which the indictments were drawn was to prevent two or more persons banding or conspiring together or to go in disguise upon the public highway or upon the premises of another with any intent to violate any provisions of the act referred to, or within the language of the act, to injure, oppress, threaten, or intimidate any citizen with attempt to prevent or hinder his free exercise and enjoyment of any right or privilege granted or secured to him by the Constitution or laws of the United States or because of his having exercised the same.

The action was tried in the circuit court of the United States for the district of Louisiana, and the question came into the Supreme Court upon a certificate of division of opinion of the judges of the court below. The Supreme Court held, in effect, that the law referred to was unconstitutional, and the defendants were discharged. I can see that the reasoning to sustain the judgment of the court was very general. In fact, considerably beyond what was necessary to sustain the judgment of the court. The oft-repeated doctrine was again presented that the people of the United States resident within any State are subject to two governments.

Nothing new was decided by the court, for there is not a lawyer in the United States to-day but what will concede that the case was rightly decided upon the facts involved. Any other decision would have been a disappointment not only to the legal profession, but to every lover of State and Federal Government in the Union. The most extreme Federalist does not deny, as I have been conceding, but what the Government of the United States is one of delegated powers alone, its authority defined and limited by the Constitution, derived entirely from the States, and all powers not granted to it by the Constitution of the United States are reserved to the States or the people, and that whatever power Congress possesses is derived from the Constitution, and if there is no power in that instrument for Congressional action, any legislation by Congress is null and void.

The case is not an authority for the question under discussion, and does not support the position of the majority of the committee. In other words, Congress passed a law to protect citizens of a State against violence offered by their cocitizens—a vast difference between such a case and asking Congress to pass a law under its constitutional power to protect the President of the United States.

Another case much relied upon and referred to by all the gentlemen who have preceeded me is in re Neagle (132 U. S., p. 1). The facts in this case are very familiar, and in my humble judgment the case is no authority whatever as far as the question under discussion is concerned. Briefly stating it, Mr. Justice Field, a member of the Supreme Court of the United States, was in California in the discharge of his official duties. A person by the name of Terry had considerable feeling toward Judge Field on account of having been beaten in some legal proceedings pending before Judge Field, and it being well understood that the life of Judge Field was endangered by Terry, the Attorney-General of the United States directed a deputy United States marshal to accompany Judge Field and protect his person from violence.

Terry made an assault upon Judge Field while in the dining room of a hotel in California, and Neagle, in defense of Judge Field and possibly himself, killed Terry. Neagle was arrested by the State authorities of California and made application to the Federal court for a writ of habeas corpus under section 753 of the Revised Statutes of the United States, the material part of the same being as follows:

> A writ of habeas corpus shall in no case extend to a prisoner in jail unless where he is in custody under or by color of the authority of the United States, or is committed for trial before some court thereof, or is in custody for an act done or committed in pursuance of a law of the United States.

The majority of the court held that Neagle was in custody for an act done in pursuance of a law of the United States. The court conceded that there was no express statute authorizing the appointment of a deputy marshal to attend a judge of the Supreme Court when traveling in his circuit to protect him against assaults; but the court protected himself in its judgment behind the position of a general obligation imposed upon the President of the United States by the Constitution to see that the laws be faithfully executed. Mr. Justice Lamar and Chief Justice Fuller very vigorously dissented.

The opinion of the court held that Neagle was justified in defending Justice Field in the manner he did; that in so doing he acted in discharge of his duty as an officer of the United States, and therefore could not be guilty of murder under the laws of California, nor held to answer to the courts of California for an act for which he had the authority of the laws of the United States. The dissenting opinion held that Neagle was not performing an act in pursuance of a law of the United States; that the Attorney-General, who directed him to accompany him, was not the President of the United States; that to discharge Neagle on a writ of habeas corpus issued out of the Federal court prevented any further inquiry in any court, State or Federal; that there should be a trial of the case in order to determine the guilt or innocence of Neagle. In short, the court held that the section of the Revised Statutes under which Neagle sued out the writ did not extend to a case of this kind.

There is not a line or a word in the case that can be construed as an authority for or against the proposition now pending. It will be noted that no power of Congress was involved, no constitutional question raised, The statute referred to limited the

power of the Federal court to issue writs of habeas corpus and the court was called upon to construe the statute and say whether or not upon the facts stated the Federal court could issue the writ. This was a very important case, and as conceded by everything that has followed it, should have been tried in the State courts, and if the supreme court of the State of California was against the defendant, the case could reach the Supreme Court of the United States on a writ of error, when that court would have before it the evidence to determine as to the guilt or innocence of the accused.

It will be unnecessary to examine any further cases. I simply say to any gentleman here or elsewhere interested in this question that up to this time they will never find a decided case upholding the doctrine that Congress has not the power to protect the President of the United States at all times and under all circumstances. For my purposes I do not care whether the President of the United States forgets his duty or not. The Federal Government simply lays a restraining hand upon the person who would strike a blow at the Government by striking down the Chief Executive of the nation.

I have said there are many unconstitutional provisions in the House bill. I believe it. Limited time will prevent my discussing it. I simply content myself by trying to point out that this case presents a very important question of government. I am standing up for the powers of Congress, and am satisfied no successful argument can be made against it. I will not discuss with any gentleman as to whether or not it is necessary to enforce our power. I think when the people demand it we should act. I do not want to have it understood that I stand alone as far as outside views are concerned. I desire to have read in my time an article from the Boston Evening Transcript. This article appeared promptly the day after the report of the committee was made public. The writer of the article thoroughly understood the subject, and the article can be read with profit.

[Boston Transcript, Monday, February 17, 1902.]

AN AMBIGUOUS BILL.

The bill which has been reported to the National House of Representatives from the Committee on the Judiciary relative to "the protection of the President of the United States and the suppression of crime against government" is a measure which is lame in construction and which may, should it become law, prove difficult of enforcement. It provides that "any person who unlawfully, purposely, and knowingly kills the President of the United States while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, shall suffer death."

Similar safeguards, under similar qualifications, are thrown about the persons of those in the Presidential succession and about ambassadors. The qualification expressed in the phrase, "while he is engaged in his official duties," etc., will appear to many persons unfortunate, or unnecessary at least, since there is no time while the President is in office that he really loses his official character. If he is not engaged in the discharge of his official duties at one moment, he may be at the next.

An official whose functions include or may include the command of the Army and Navy, the execution of the laws, the initiation or supervision of our foreign relations, has little time save when he is asleep when he is not "engaged in his official duties." Under this construction of the bill it might prove as a law effective, but how can we be sure that such construction would always obtain by common consent. The ingenuity of the trained criminal lawyer never sleeps. It would be quite adequate to raising the point that if a President were assassinated in the interval of official duties, say, while on a vacation or on a pleasure trip, that the Federal law did not apply and the trial should be remanded to local courts, under laws that provide but imprisonment as the penalty for murder.

The definition of the interruption or cessation of official duties would be a nice point of which shrewd attorneys would make the most. Thus it could not be questioned that Lincoln was slain because of his official acts as President and Commander in Chief. He was killed by one who sympathized with the Confederacy, and who frantically hated him as the successful champion of the Union. Whether Garfield, when shot down in a railroad depot while about to start for Williams College commencement, was engaged in his official duties is fairly a question within the meaning of this bill.

The committee seems to realize this doubt, for in the report accompanying this bill it is maintained that Garfield was assassinated because he, "as President, had refused to grant certain requests, and possibly because the assassin desired the exercise of the Executive functions to be in other hands which he thought would the more readily serve his interests." The committee adds: "Lincoln and Garfield were murdered because of official acts or omissions, McKinley because he represented organized government."

This is true; but it can not be seriously contended that Lincoln, sitting in a theater watching a play, Garfield standing in a railroad waiting room, McKinley at a public reception, were engaged in the discharge of their official duties at the very instant when they were struck down. It is this failure to specifically throw the protection proposed by the bill around the President at all times that makes the bill defective. It breathes a spirit of compromise between Federal and State jurisdiction in this respect which is expressed in the committee's reference to the Vice-President:

"The Vice-President can not act until Congress meets. His constitutional duty is to preside over the Senate." But we may ask, Would the killing of the Vice-President, by its interruption of the established succession, be any less a blow at organized government because the crime was committed when he had waived the exercise of his constitutional duties, a president pro tempore presiding over the deliberations of the Senate? We know that Vice-Presidents have from time to time waived this duty, but they were none the less Vice-Presidents. Convenience counts for a great deal in all legislative bodies.

A considerable portion of the time of the House is passed with some one else than Speaker HENDERSON in the chair, but none the less Speaker HENDERSON remains Speaker HENDERSON during his absence from the Chamber of the Capitol.

The bill is already criticised in Washington as exhibiting the tendency of distinguished lawyers to "keep on refining" when the task referred to them calls for a very short and simple measure.

I have no private opinion in regard to this matter. I am simply discharging my duty as a member of the committee to present my view, and whatever the House may see fit to do will be entirely satisfactory to me. But I do not want the power of this Government impaired without my most earnest protest.

I want to invite further attention to what Chief Justice Marshall said in reference to this very important question. I am not arguing here to-day that my friends ought to go with me in violation of the Constitution of the United States to invade the powers of the States.

I want to repeat again, as I have additional time, that there is no man who stands on the floor of this House that is more prepared to-day to defend the absolute power of the States than I am. I believe to-day that every police power in the nation ought to be exercised through the States rather than through the Federal Government, but at the same time I must say, within constitutional limitations, that I am wedded, strongly wedded, to the powers of the Federal Government.

While I admire, love, and respect the States, I want to say to-day that we would be absolutely insignificant unless we had a great Federal Government that we could all look to in times of danger; and while I propose to stand by that Federal Government on all occasions within just and constitutional limitations, I do not propose to invade the powers of the States under any circumstances or any time. As I have said, I am simply standing here to-day because I want in this bill to express the full powers of the Federal Government. I think it would be absolutely humiliating to a great Federal Government here to-day to say that we had no power to pass a bill in accordance with my views, and that in order to pass it we have got to introduce a large number of qualifications and limitations which render the bill absolutely valueless in my judgment.

Now, what did the great Chief Justice say further in support of my views:

It may with great reason be contended that a government intrusted with such ample powers, on the due execution of which the happiness and the prosperity of the nation so vitally depends, must be intrusted with ample means for their execution.

Again, in the case of The United States against Fox, in 95 United States, 670, the Supreme Court of the United States said:

There is no doubt of the competency of Congress to provide, by suitable penalties, for the enforcement of all legislation necessary and proper for the execution of the power with which it is intrusted.

And I say to the people of this country who are interested in this great nation, it certainly ought to be conceded by every person interested in the welfare of the Government that whenever an express power is created or vested by the Constitution Congress has ample power to make the express power enumerated effective and operative.

The Supreme Court of the United States has aptly spoken on this subject:

The founders of the Constitution could never have intended to leave to the possibly varying decisions of the State courts what the laws of the Government it established are, what rights they confer, and what protection shall be extended to those who execute them.

It is argued that the preservation of peace and good order in society is not within the powers confided to the Government of the United States, but belongs exclusively to the States. Here again we are met with the theory that the Government of the United States does not rest upon the soil and territory of the country. We think that this theory is founded on an entire misconception of the nature and powers of that Government. We hold it to be an incontrovertible principle that the Government of the United States may, by means of physical force, exercised through its official agents, execute on every foot of American soil the powers and functions that belong to it. This necessarily involves the power to command obedience to its laws, and hence the power to keep the peace to that extent.

This power to enforce its laws and to execute its functions in all places does not derogate from the power of the State to execute its laws at the same time and in the same places. The one does not exclude the other, except where both can not be executed at the same time. In that case the words of the Constitution itself show which is to yield. * * *

If we indulge in such impracticable views as these, and keep on refining and re-refining, we shall drive the National Government out of the United States, and relegate it to the District of Columbia, or perhaps to some foreign soil. We shall bring it back to a condition of greater helplessness than that of the old Confederation.

The argument is based on a strained and impracticable view of the nature and powers of the National Government. It must execute its powers, or it is no government. It must execute them on the land as well as on the sea, on things as well as on persons, and to do this it must necessarily have power to command obedience, preserve order, and keep the peace; and no person or power in this land has the right to resist or question its authority so long as it keeps within the bounds of its jurisdiction.

(See Tennessee *v.* Davis, 100 U. S. Reports, 25; ex parte Siebold, 100 U. S. Reports, 371.)

Now, then, let me call attention to one or two more illustrations that I think are very pertinent. The Congress of the United States has power under the Constitution to establish uniform rules on the subject of bankruptcy. Now, every gentleman upon the floor of this House, every single lawyer in this nation, knows that under that great power Congress has the power to pass punitory legislation. It has frequently, and during my connection with this House, exercised that power. There is no detail of legislation in the Constitution, but, as I say, no one has ever questioned that great power.

Now, if we have got power to punish a man because he violates the bankrupt law of the United States, have we not got power to punish a man absolutely and without qualification that kills the President of the United States? Congress has also the power under the Constitution to establish post-roads and post-offices. Under this power, coupled with the power to which I have invited your attention, Congress has the power to pass all laws necessary to make that power effective; they rent buildings, make roads, carry the mail, and punish any man that violates the postal laws of the United States. And yet my friend from New York and his Republican colleagues, excepting myself, deny to Congress the power to punish a man who will, under absolutely indefensible circumstances, kill the President of the United States.

Now, Mr. Chairman, passing from the power of the Government to the bill itself, I want to invite particular attention to it. It is important that we do it. Congress is asked to create a statutory offense. If this bill is written into the statutes it will be highly penal. Every gentleman connected with the law on the floor of this House will confirm this statement. It will be liable to strict construction, and it can not be extended by construction. Every gentleman who has ever practiced law knows that one of the English statutes provided that whoever killed sheep or other cattle should be punished in conformity to the provisions of the statute. When a man killed a cow it was held that he was not liable, simply because it was not a sheep. That shows how strict they construe penal provisions.

Now, the bill under consideration proposes to make it a crime to kill the President of the United States under certain circumstances, not generally and under all circumstances, but within certain limits. Hence it appears from the language of the bill that the President may be killed and yet it would not be a crime within the pending bill. They say before you can make it a criminal act you must find that the President was killed when in the discharge of an official duty, or because of his official character, or because of his official acts or official omission.

I want to say to the country upon this occasion that my friends have very ingeniously pointed out to any man who wants to kill the President of the United States that he can kill him and not be liable under this law. I want to say to every gentleman interested in this question, as I have persistently urged whenever I had an opportunity to do it, that a man can kill the President of the United States and absolutely be immune under this provision. I can not conceive of any provision more favorable to a criminal than the one they are trying to write into the statute books upon this occasion.

Now, look at it for a moment. The bill provides that a man can only be punished under this act when he kills the President while in the discharge of his duty. We have had three Presidents killed since we have been on earth, and not a single one of them killed in the discharge of a public duty. Now, I want to call the attention of this House to the fact that they are trying to divide by legislation this great power. Here is a provision that the duties of the President are divided into two classes—official and non-official. In one case it is a crime to kill the President and in another it is not.

Now, when you say by legislation if you kill the President when he is engaged in official duties, that implies that there is a time and circumstances when he is not engaged in the discharge of his official duty, and the report in this case and the argument of my friend from New York yesterday was that if there is one moment of time when the President of the United States is not in the discharge of his official duty no man can be punished under the power of Congress.

Within a short space of forty years, within the time of every gentleman on the floor of this House, we have had three Presidents assassinated in this country; and I do not blame the people of this country for rising, without reference to their politics or religion, and demanding that the Federal Government pass some legislation with reference to this great question. But not one of them, Mr. Chairman, was killed in the discharge of his official duty.

I want to combat most strenuously, at the expense of the charge of repetition, by saying that it is absolutely impossible for a man to be in the discharge of his duties all the time. Was President Garfield in the discharge of his duty from the moment he was shot until his death? Every man knows that he was not. Was Lincoln in the discharge of his duty at the time he was shot? Not for a moment. Was McKinley in the discharge of his duties from the time he was shot until his death? Not for a moment. And yet, under the proposed bill, if any man had stepped in there and shot again President Lincoln and he had died as the result of that second shot, the man could not be punished under this bill.

Following that out, if any man had shot Garfield at any time after he was first shot, and he had died as the result of that second shot, you could not punish him under this bill. Following that out, as far as McKinley was concerned, if any man had shot McKinley after that fatal shot at Buffalo and before he died, and as the result of that shot he died, no man could be punished under this bill. For they say that if there is a moment of time that the President of the United States is not engaged in the discharge of his official duties no man can be punished for shooting him. All on the theory that Congress has no power to punish generally and under the limitation in the bill.

Mr. PERKINS. Will the gentleman yield for a question?

Mr. JENKINS. Certainly.

Mr. PERKINS. The gentleman said just now that if anyone had shot President Lincoln after the first shot he could not be said to be then in the performance of his official duties. Does the gentleman hold that President Lincoln was in the performance of his official duties when he was shot?

Mr. JENKINS. Oh, no.

Mr. PERKINS. Certainly not.

Mr. JENKINS. I am coming to that, I will say to my friend. I am insisting, and I thank the gentleman for asking me that question, for it assists me in my argument, that there are times—I do not care how multitudinous the duties may be that are forced upon an officer by the Constitution—there are times when he can not be in the discharge of his duties. I was illustrating that to demonstrate that he stood on the same plane as though he was asleep, and I want to protect the President of the United States when he is asleep or when he is awake, whether he is playing polo or whether he is writing his message, because I insist that this great Government has the power to do it and that we ought to do it.

That is my insistence, and I do not think we are begging the question or invading the power of the States when we start off in support of that position. Why, no; the lamented Garfield never was in the discharge of his duties for a single moment after he was shot, nor was any one of the others whom I have mentioned. Now, let us take up the question and let us look at it a minute. Since I have been here in Congress I had the pleasure of going down into Virginia, the burial place and home of the great George Washington, to listen to an address by the late President McKinley at the tomb of Washington.

Is there any gentleman here to-day who dares to support the position that the late President McKinley went down there in an official capacity? Not at all. Why, I am told here that in the social life in Washington there are a great many of us who are invited out because we are Congressmen, and that if we were not Congressmen we would not be invited out at all. Now, I do not want any gentleman to arrogate to himself the belief that he is invited out only because of his official capacity. He is invited out because he is a Congressman just exactly as our President of to-day was invited down to Charleston.

If he had not been President, he would not have been invited there. He did not go down there in an official capacity. It is true, I say to my friend here, that he went down there because he is President of the United States. He went down there simply because he was President of the United States, and no doubt he did honor to the occasion, as he always does upon any occasion and at all times. But, at the same time, I say that if he had been shot down there, the man that shot him could not have been prosecuted under this act if it had been in force at that time.

Now, I am not here urging that we pass this law because the States are going to be recreant to their duties. I am one of those men here who have as much confidence in the people of Texas or the people of Alabama as I have in the people of my own State. I do not question their loyalty to the Union; I never have and I never will as long as I see such evidences of loyalty all along the line. [Applause.]

I have the idea that if this last murder had been committed down in Texas, where my Christian friend who spoke so eloquently here yesterday lives, they would have strung that fellow up to a telegraph pole, and he never would have been tried. They would have vied with each other to have vindicated the law, and I do not mean any insult or disrespect to the people of the South because I say that, but I know that they love this nation so strongly that there is no question about their loyalty.

I am not advocating this measure because I doubt the loyalty of any State in the Union, whether it is my own beloved State or some State of the South, but I am here insisting to-day that we ought to pass some law expressive of the power of government, because the people have demanded it and Congress has the power to act and therefore it should not refuse to put that power into operation simply because there is some danger of an invasion of State rights, or some intervention of that kind.

No, Mr. Chairman, I would not libel the people of the South. We are not asking this because we expect our President to go South by and by and we want him to be protected; we know that when he enters any State in this Union every man there, without reference to politics or his political sympathies, will stand up like

a man and protect the President, but we want to put in operation a power of national government that the people of this Government have demanded of us that we should put in operation.

Mr. LANHAM. Will the gentleman permit a question just at this point?

Mr. JENKINS. Certainly.

Mr. LANHAM. Suppose the Federal Congress had authority to take cognizance of an offense of this sort committed within a State, would not the person committing the crime have to be tried in the district where the offense was committed, and would not the jury have to be selected from the same body of citizenship as they would be chosen from in the event of a State trial?

Mr. JENKINS. I should answer my friend from Texas in the affirmative. His legal conclusions, according to my view, are absolutely correct. There is no question about them, not at all. We do not doubt (and that confirms what I have been arguing and advocating) the people or the power of any particular State——

Mr. LANHAM. Then what is the necessity for enacting any statute at all?

Mr. JENKINS. The necessity, I will say to my friend, in answer to his question, is this: We ought to have uniform legislation. The necessity is simply because the people of this Government have demanded it by thousands, and thousands of names have come to us on petition asking that Congress legislate, because their attention was sharply called to it when the late President McKinley was killed.

There was a great question as to who should exercise the power of punishment and as to what the punishment should be, but as was well said yesterday by the gentleman from New York [Mr. RAY], there are States in this Union where punishment is not extreme. Had that unfortunate murder been committed in the State that I have the honor in part to represent, the murderer would only have been punished by imprisonment in the State prison for life. In other States he would have been sentenced to death. We want uniform punishment; but I am contending to-day that the power is ample, and as long as the people of this country are demanding that we should exercise the power, I think that the Congress of the United States would be cowardly in refusing to legislate with reference to a power conferred by the Constitution, and I do not care if more than a hundred years have elapsed and we have not exercised that power.

There must be a beginning, and to-day, after the people have suffered a loss of three Presidents—and their loss has been universally mourned all over the country—they are demanding that we should legislate with reference to it. We would be recreant to our duty if we did not legislate. And I want to say, in order that my position may not be misunderstood, that I do not care how objectionable the bill under consideration may be, I am going as far as I can. All I regret is that the majority of this committee have not gone as far as I think they ought to go with reference to the power of Congress, and I regret exceedingly that they have gone off to protect others to whom the Constitution does not afford any protection.

I think I have very fully covered my objections to the bill; but I want to confirm my opening, that under this bill it is going to be absolutely impossible to convict any person. Why? Because it says here the Government is so absolutely weak that you can not punish a man unless he murders the President within three limitations. First, the President must be engaged in his official duty. As I said, none of the three Presidents who were murdered was engaged in an official duty when he was murdered. Second, that he must be punished because he killed the President on account of his official character.

Why, you can not separate the character. We are Congressmen from the day we are elected until we go out of office by death, resignation, or limitation. You can not separate the official from the nonofficial. Or, they say, you must kill him because of some official act or official omission. I am told that my friend the gentleman from Ohio [Mr. NEVIN], who is doing me the honor to listen to me now, is one of the ablest debaters that ever discussed a question of this kind. He is going to follow me. I know he is a man of ability, and I want to address my questions to him.

Suppose he was the judge of a court. He would say, "Gentlemen of the jury, before you can convict this man of killing the President of the United States under this law you must find one of three conditions. You may find them all, but if you find one it will be sufficient. You must find that this defendant killed the President at a time when he was engaged in the performance of an official duty; or, if you do not find that, you must find that he killed him because of his official character. Or, if you do not find that, you must find that he killed him because of the fact that he officially failed to do something or officially did something obnoxious to the defendant. If you do not find that, you must acquit him." Now, that is pointing out to a man that under the Federal law he can go and kill the President of the United States and be absolutely immune under any law that Congress passes, if this bill becomes a law.

Mr, KLEBERG. Will the gentleman permit me?

Mr. JENKINS. Certainly.

Mr. KLEBERG. And is it not true that if he were acquitted in the Federal court the State court could not try him on account of having been once in jeopardy?

Mr. JENKINS. Certainly; the State court could not try him. I agree with my friend from Texas fully. I say you are pointing out to a man how he can kill the President and not be punished for it. When the late President McKinley went down and delivered the great address over the tomb of Washington, did the President go there in his official capacity? Why, not at all. It is true he went down there because he was President of the United States. If he had not been President of the United States, he would not have been invited. But he was not in the discharge of an official duty.

Now, supposing some person had taken offense there because the President of the United States felt like eulogizing Masonry. Washington was a Mason, and I understand that the late President McKinley was a Mason. Naturally he would eulogize Masonry.

Supposing some person had taken offense at that utterance and had pulled out a gun and shot him. Under this act you could not punish him, for he did not shoot him when he was engaged in any official duty. He did not shoot him because of his official act or official omission, and he did not shoot him because of his official character, but he shot him because he was standing there in defense of Masonry.

Suppose, further, that the shot was fired when the President was not in the discharge of a public duty, and there is nothing to indicate the motive or purpose of the shooting.

He escapes under this law. Now, my insistence, as I am appealing to my Republican friends, is that we can protect the President of the United States in general terms under the great constitutional powers. That is what I am insisting upon. I do not care under what circumstances the shot is fired. How are you going to prove it when the murderer is silent? The President goes out riding; he goes out to New York to deliver an address; he goes out to Detroit, Mich., to speak on some great question. Some person takes offense at him and shoots him. He does not open his mouth. He sits there at the trial with his mouth closed. How are you going to prove under what circumstances he shot him?

I am inviting the attention of those gentlemen who are forcing this bill upon the country as to how you are going to convict. I am calling attention to it, because I say you are weakening the bill, you are weakening the law, when you throw this doubtful provision into it. Why, all that a man has got to do when he has shot the President is to keep his mouth shut. How are you going to force him to state under what circumstences he did it? You may call on him to state whether he did it while he was in discharge of his duty, and he will say "No." Then you may ask him whether he did it on account of his official character, and he says "No." You may call on him to state whether it was on account of any official act or omission; he says "No."

But my learned friend from New York says that we have introduced section 13 in this law, by which we are going to change the law of civilization, the law of nations from time immemorial down to to-day; we are going to change the law in order to carry out our purpose, and we are going to say to any man that we will make a presumption of fact a presumption of law, and I can not tell from reading the efforts of yesterday as to what that presumption shall be; but they are so much afraid of their position that they say that we declare as a matter of law that the President shall be presumed to be at all times in the discharge of his duties, and therefore if a man kills the President of the United States it devolves upon him to prove that he was not in the discharge of his official duties.

Why, the gentleman from Indiana [Mr. CRUMPACKER] ventilated that question yesterday when he asked the gentleman from New York with reference to it. It was an absolute disposition of the question and makes it unnecessary for me to discuss it. It answers it, and there is no possible chance for argument with reference to it.

A man steps up and shoots the President of the United States. He does not make any declaration as to how or under what circumstances he shoots him. To get rid of that question of fact we are asked to say that it shall be made a matter of law that if any man shoots the President of the United States it shall be presumed that he was in the discharge of his duties. Why, look at it. It is absolute nonsense, if I may say so and speak respectfully of this great question.

Take the illustration of it that I have given, when the late President McKinley went to the tomb of Washington and delivered a Masonic address. Suppose he was shot then? They say we will establish it as a rule of law, according to the language of

the gentleman from New York, that he was in the discharge of his duty, and the defendant must prove he was not.

Now, I insist that such things are absolutely unnecessary. I insist that if the President of the United States is killed the man that kills him should be punished. Why, because, Mr. Chairman, I am insisting that when a man shoots the President of the United States, in contradistinction of the argument of my very learned friend from Texas, he is really striking a blow at the Government, not striking a blow at the individual. We are not seeking here to-day to protect the individual, but we are seeking here to protect the instrument, the representative of government.

That is what we are doing. We are not trying to say that if a man holds a high office in the Government he shall be protected as against the humblest individual of the United States or the nation or the State. We are simply to-day exercising the power possessed by the Federal Government—a power that was never exercised. That is what we are attempting to do. We are not seeking to do anything, but in obedience to the demand and the great call of the people of this nation we are seeking to put into operation the power of the Government to aid in the protection of the President of the United States. The people are demanding it. It is not as federalists we are demanding this legislation.

It is not as though the extreme and radical were demanding this legislation. We are simply acting in obedience to the great demand of the people who say there ought to be a national law. It is not confined to the North, but it comes from the South; it comes from the West, and it comes from the East. They are all demanding that this great power that has been dormant for over one hundred years be put into action. That is all they are demanding. We are not violating any principle of the Constitution, we are not invading the power of the State. There is not a single man that wants to invade it.

Now, I am in honor bound to hurry along, but I want to call attention to the difference between the Senate bill and the House bill. Mr. Chairman, my learned friend, the chairman of the Judiciary Committee, has insisted that the Senate bill is unconstitutional. To a certain extent I agree with him, but I insist that the Senate bill is infinitely preferable to the House bill.

The difference between us and the Senate is that the Senate absolutely agrees to my position. The Senate says, without division, without debate, without a question, with those great Democratic members sitting there in the Senate, that there is no question but that the Congress of the United States has the absolute power to protect the President of the United States, asleep or awake, whether he is engaged in official duty or nonofficial duty. It makes no difference when he is killed. They say it is punishable per se, and I say so.

I say so, Mr. Chairman, because the man that kills the President of the United States does not merely kill an individual; he does not kill a man, he kills the representative of the executive branch of this Government. He strikes a blow at government. That is what we are aiming to protect. We are aiming to protect the Government of the United States, and not the individual who fills the position. It may mean lots to this great Government to have a President of the United States killed. We may have no Vice-President, and it may mean a great change, it may make a great difference, and we want to warn all men that they must not kill the President of the United States, whether he insults them or not.

I will not indulge, as far as I am concerned, in any such reflection. I know, as I have said in answer to the gentleman from New York, that we have never had a man, and I know that we never will have a man elevated to that high position, who will so far forget himself as to insult any man and provoke him to murder; and if he does, let the responsibility rest upon the murderer instead of upon the nation.

I insist that a man must keep his hands off. He may want to kill the President, but I do not care what you suggest may be the reason or motive, I am insisting to-day that the man that kills the President of the United States strikes a blow at the Government and the individual liberty of every citizen of the United States. It is not killing simply a man. If it was, we would not be exercising or attempting to exercise the power to-day. I would not insult any State in this Union by asking that the Federal power be invoked, because I think that any State would discharge its duty. I know no State would be recreant to its duty on an occasion of this kind.

I am asking you why anyone should find fault because the Congress of the United States proposes to put into execution one of the great powers confided to it by the Constitution of the United States. We do not want to impair the power of a State; we do not want to invade, and we never will by my action invade the power of a State. I know that no lover of this Government will ever insist on any such proposition.

I want to refer to two or three provisions of the bill, and I tell you it will take some good lawyer to explain it. Out in our country when they get confused in reference to a legal proposition they say it will take a Philadelphia lawyer to explain. What that means I do not know. I never had it explained to me. But I tell you it will take more than one lawyer to explain to me some of the provisions in this bill.

Now, I have not the time to go through it seriatim, but I wish I had. I have tried to point out in my feeble way and with my limited time that while I agree with my colleague that the power they seek to invoke is constitutional, they do not go far enough. They have yielded to democratic influence; they have denied the just and full powers of this Government. I have given my views in the bill which has been read from the Clerk's desk, because I think that goes as far as the Federal power can go.

We can not protect a man who seeks to come in to occupy that high place in case there is a vacancy. There is no need of passing any law with reference to the Vice-President of the United States. He is amply protected, because the only duty he performs is right here under the Dome of this Capitol. Therefore there is no necessity for any legislation as far as he is concerned. And when we go out of our way to protect the ambassadors, there is no difference between the House bill and the Senate bill.

As I have said, I think the Senate bill is infinitely preferable to the House bill, because it recognizes the just and full power of Congress in this great regard. It goes further than I wish it did, because it seeks to protect foreign potentates abroad. We have nothing to do with them, and I agree with the learned chairman of my committee when he says that that provision of the bill is absolutely unconstitutional, but there is one thing in this bill that I do not understand, and I want some gentleman who follows me to explain that provision.

If you will read that bill you will see that the House bill provides, first, that if a person should kill the President of the United States when he is in the discharge of his duty, or on account of his official capacity, or on account of his official omission or official act, he shall be punished with death; but, referring to section 5 of the bill, if a man should assault the President of the United States and get into a rough-and-tumble with him and in the event of that struggle the President should die, he can only be punished by life imprisonment.

In other words, there are two contradictory provisions in this bill. First, if you kill the President of the United States, you shall suffer death; second, if the President die from some assault that you make upon him, then you shall only go to State prison for life. I want to invite your attention to it because of the contradictory provisions of that bill. I can not understand it. I could not understand it when the provisions were considered, nor can I understand it now.

I am standing here and saying that I think that such provisions are absolutely unnecessary. My insistence is, first, as I have presented this bill to this House, that a man who kills the President or makes any assault upon the President of the United States with an intent to take his life should suffer the extreme penalty of the law, not because he has attacked an individual, but because he has attacked the sovereignty of this Government. That is what I am insisting upon, and I think it is pretty near time that we settled this great question of State rights and the power of this Federal Government.

I am willing this great Government on this question should go to the people of the several States, whether it is North or South, I do not care where they come from. As I have said, I know that the people of the South are going to insist that their representatives should stand up in favor of the power of the Government. The wisdom of the execution of the power may be another proposition. I am simply standing here in defense of the power of this Government, and I do not want it belittled.

I am insisting that the Constitution says that we have ample power to act, and I think that on account of the fact that in less than forty years we have had three Presidents of the United States assassinated in cold blood there is nothing wrong in correcting the powers of government. When we do this we are working no outrage on any State of this Union. I do not want it to go to the several nations of this globe that Congress has no power at all times to protect the President of the United States. I have no words of condemnation, no quarrel with my colleague who insists that it is not wisdom to enforce that power.

I am simply insisting, Mr. Chairman, that the time has come when we ought to exercise that power, and I am insisting here to-day that we have got the power and that we will be recreant to every duty unless we do exercise that power and write into the statute book that any man who kills or attempts to kill the President of the United States shall suffer death.

We say here to-day it is not the individual; if you make an attack upon the President of this country you are making an attack upon the people of the United States, North, South, East, and West, and we will rise up here in our dignity and defend the power of the nation. [Applause.]

Mr. RAY of New York. Mr. Chairman, I yield to the gentleman from Ohio [Mr. NEVIN] such time as he desires.

Mr. NEVIN. Mr. Chairman, when the shot fired at Buffalo had done its fatal work the people of the country, in their eager and earnest desire to suppress such occurrences for all time, seemed to forget everything except that something must be done, some law of some kind must be enacted. The Committee on the Judiciary had literally hundreds of names, scores of petitions, and dozens of bills of all kinds providing a punishment for what in general terms was called anarchy. There were bills offered which made the killing of the President of the United States punishable by death; not the unlawful killing, not purposely killing, not maliciously killing, but just to kill the President, no matter how or why, was to be punished by death.

Out of that multitude of bills the Committee on the Judiciary began to examine and to prepare what in its judgment would be a constitutional, conservative bill, worthy the dignity of the subject and the American Congress. All of the members of that committee upon our side save the gentleman who has just spoken [Mr. JENKINS] have submitted to the House the bill as it is presented to you to-day. All of these questions that have been argued here were presented there, and I may say that it did not require any great investigation for us to arrive at the conclusion that it was not only constitutional, but that the inherent power rested in this Government to pass a law punishing anyone who unlawfully killed not only the President, but any officer of the Government of the United States.

I differ from my friend from Wisconsin [Mr. JENKINS] on the proposition that the President of the United States stands in any other relation to this Government as an officer than does a deputy marshal. So far as the Government is concerned, the President is an officer, no more and no less, save that he has multitudinous duties to perform and of a higher and more dignified kind. He differs in degree, it is true, but he is an officer of this Government, elected as other men are elected and as some are appointed, with precisely the same right to be protected, and no other. As a citizen he has just the same right, as the gentleman from Texas [Mr. LANHAM] said the other day, that any other citizen has. We have been taught from earliest infancy that, so far as men are concerned, there is no difference in this country between those who hold office and those who do not, and I agree to the fullest extent with the remark made by my friend from Texas that, so far as the citizen is concerned, it is just as much a crime to kill one good man, though he be the humblest in the community, as to kill any other good man, though he be President of the United States.

Therefore, starting out with the proposition that we have the inherent power to protect our own Government, the same inherent power that all governments have, we have reached this conclusion. What is the Government? It is that which rules a people or a nation; and unless it can protect itself, it is nothing. It is less than a wisp of straw or a rope of sand. It must have the inherent right, regardless of any Constitution, written or unwritten, to protect itself, and therefore to protect its officers and its agencies. Therefore we had no differences in the committee in the opinion that we have the right to pass a law punishing anarchy, punishing the killing of a President or a Vice-President; and although I listened intently to my friend's reading of the Constitution, I failed to hear anything to-day, as I have failed from an examination of it heretofore, to find anything which would indicate in the least that the President differs in any way as an official from any other officer of this nation.

Now, what did we find when we began to examine the decisions? We found that from the very beginning of this Government there had been recognized the right of the State only and alone to punish the citizen; that in whatever jurisdiction you were, there the citizen, the man, the homo should be protected, and if assailed his assailant should be punished according to the law of that place. And why was it not right? Whatever is good enough and strong enough and righteous enough for the citizens of Texas ought to be good enough for the citizen of Ohio who goes down there, as I hope I may when my friend [Mr. LANHAM] is elected governor. Anything which will protect a citizen in Ohio ought to be good enough for any alien or any citizen of another State who goes there, ought it not, if the law is rightly and faithfully administered? And therefore it is that in all the decisions of all the cases it has been held over and over again that the punishment to the citizen must be in the forum or in the place of venue where the offense occurred.

Now, we intended to go beyond that, not to protect the President as a citizen, but to protect him as an officer of this Government. And then what did we find? Why, we found the opinions over and over, as Judge RAY said, at least a dozen times, expressed that this could only be done in reference to him in his official capacity. My friend from Wisconsin [Mr. JENKINS] says he can not differentiate, that he can not tell when a man ceases to be President and when he becomes a citizen. Well, I assume that is a question of fact, like any other question of fact. My friend says we have had three Presidents killed in the last few years and that not one of their murderers could have been punished under this law. There was not one of those assassins who could not have been punished under this law. There was not one of those Presidents who was not killed on account of his official character, whether he was in the performance of an official duty or not, whether by reason of the fact that he omitted to do something or had done something required of him or not.

It was on account of his official character that each one was slain. Take the last one. Why, gentlemen, say that you should answer as you would if you were a judge trying the case. Very well; take the last case. The assassin would have been brought forth for trial and, the Government having rested, he would have been put on his defense. There is no claim that he had ever spoken to President McKinley, that he had ever seen him, that any act of his as an individual had caused the assassination. He absolutely had no reason to kill him save on account of his official capacity—because he was the President of the United States—and under this bill, if it had been a law——

Mr. MCDERMOTT. Will the gentleman allow me to interrupt him?

Mr. NEVIN. Certainly.

Mr. MCDERMOTT. You have as to one case made it a presumption by law—killed him because of his official capacity. If he made no utterance at the time of the killing or thereafter, the jury could not find that he killed him because of his official capacity, because there could be no evidence, and the presumption would be that he did not kill him because of his official capacity, but that he killed him in the way that would best be in accordance with innocence. Then, in the thirteenth section, you provide for a presumption of law. Rightly speaking, the presumption would be the other way in the absence of affirmative evidence that he killed him because of his official capacity; that not being proved, he would be entitled to acquittal by the jury.

Mr. NEVIN. You are correct in the statement of the law, but I differ from you as to the statement of fact. Suppose the case goes to the jury. There are certain presumptions of law. Every man is presumed to be sane until the contrary is shown. Every man is presumed to intend the natural consequences of his act until the contrary is shown. If I take a pistol loaded with powder and ball and fire it into your body, I am presumed to intend to kill you if death results. Suppose for a minute that you and I shall be seen together late at night, and a pistol shot is heard, you are killed, and then I shall be found with the pistol in my hand, the presumption of law is that the person firing the shot intended to kill you, and the jury would find as a fact that I had done so. Does not the gentleman think that any jury would so find?

Mr. MCDERMOTT. No.

Mr. NEVIN. I rather think they would. I would hate to be put into that box. [Laughter.]

Mr. MCDERMOTT. The presumption of fact and the presumption of law are entirely foreign to my question. Where is there any legal principle for it being established, if the President of the United States has been assassinated? What legal principle would you invoke to justify the jury, in the absence of a statutory law of Congress, in presuming that the man killed the President of the United States because he was President?

Mr. NEVIN. I will answer that now by taking your own illustration. Suppose, only to illustrate, that I take the history of the assassination of Mr. McKinley. Let us take the facts and put them to the jury. Under this Federal law he is indicted in the Federal court, and he is brought before the jury, and the proof comes out that he had never spoken to the President, he had perhaps never seen him, so far as the proof would show—I am talking about the proof that goes to the jury——

Mr. MCDERMOTT. Carry it a step further. If there was no evidence that he had any knowledge that he was the President.

Mr. NEVIN. Ah! but that could not be, because you must assume that every sane man must know the President. The jury would certainly presume that he knew that Mr. McKinley was the President. The law presumes that every man knows what the law is. If you can presume him sane, you can presume he knew the President. Take the assassin, put him before the jury, with all the facts just as they existed in this case and nothing else, and is there any jury in the world that would not presume the fact—that is, the official character of the person killed—upon which it could return its verdict?

Mr. LITTLEFIELD. To find as to the fact?

Mr. NEVIN. Yes; I am using those as synonymous terms.

Mr. MCDERMOTT. I should imagine any civilized court would overturn the verdict of a jury which would find a fact upon which there was no evidence. Now, let me go a step further, right in that line, if I am not interrupting you too much?

Mr. NEVIN. Not at all.

Mr. McDERMOTT. Another question. You have in section 13 a presumption—

That in all prosecutions under the provisions of the first seven sections of this act it shall be presumed, until the contrary is proved, that the President of the United States or Vice-President of the United States or other officer of the United States entitled by law to succeed to the Presidency, as the case may be, was at the time of the commission of the alleged offense engaged in the performance of his official duties.

I take it that the draftsman has attempted to create a presumption of law. No presumption of law would stand in any case where a President has, up to date, been assassinated, for this reason——

Mr. LITTLEFIELD. The gentleman from New Jersey means a presumption of fact?

Mr. McDERMOTT. A presumption of law.

Mr. LITTLEFIELD. A presumption of law is not rebuttable, and this presumption is rebuttable by the language of the section.

Mr. McDERMOTT. Now, take, for instance, the assassination of President Lincoln; he was assassinated during a theatrical performance. President Garfield was assassinated when about to take the train for a pleasure trip. President McKinley was assassinated while addressing his fellow-citizens at a fair for the encouragement of Pan-American commerce. Now, that fact being shown to the jury, the case on review would stand this way: That it was shown that President Lincoln was not engaged in an official action, that President Garfield was not engaged in official action——

Mr. NEVIN. I can not agree to the gentleman's statement of fact.

Mr. McDERMOTT (continuing). That President McKinley was not engaged except so far as you load him with the Presidency; the individual was not engaged in Presidential duty; and it would necessarily appear on the part of the prosecution by the Federal Government that he was not engaged in the performance of an official duty. Therefore, having proven your case for the State, you necessarily have proven the negative which is here proposed, and you have overcome the presumption necessarily in the presentation of your case that he was engaged in any official duty, and your act shows and provides that that presumption shall exist only until the moment that the contrary is proven. It would be impossible—I do not say in future cases, but in cases that we can illustrate from assassinations that have taken place—impossible for the United States to have established its case without overcoming this presumption rendering the defendant at the bar entitled to the direction of acquittal; and if it was not given, the conviction would be reversed.

Mr. NEVIN. I can not agree with the statement of facts made by the gentleman from New Jersey. This presumption set out in article 13 to start with—take any one of his illustrations, I do not care which one—would start out with the presumption that he was at the time of the assassination engaged in the performance of some official duty.

Mr. McDERMOTT. But the proof would show that he was not.

Mr. NEVIN. No. You see there is where we differ. What would you or I say if we were trying a case as to what constituted official duty? For example, I say, and I believe that the President of the United States is as much within the performance of his official duty in the case I am about to illustrate as though he was absolutely writing his message to Congress.

The President is sitting down and writing a message to Congress. He is engaged in the performance of his official duty beyond question. He gets tired, and to brighten his intellect and rest his body he strolls to the window and stands there smoking his cigar and looking at the stars, and a man comes along and kills him. I say when killed he is as much in the performance of his official duty as though he was absolutely sitting with the pen in his hand writing his message. I say that President Lincoln, tired and worn out, overburdened with the mighty strain that had been put upon him, went to the theater as a recreation to enable him to perform his duties the next day, and when he was assassinated I say he was assassinated during the performance of a duty, and a jury would have a right to say and so find, and there would be no such thing, as the gentleman states, of evidence to rebut it.

Mr. RAY of New York. The courts have said in all cases, and the Supreme Court of the United States has decided in several cases that the officer is in the discharge of his official duty at any time when he is charged with the performance of that duty. This may be termed impliedly so engaged. Now, the President of the United States is Commander in Chief of the Army and Navy. The executive authority is vested in him, and it is his duty to execute the law at all times and to see that it is executed, and therefore there is no time when he is not engaged in the performance of an official duty—that is, in and about the performance of his official duties—unless he might be in some position where the court might find, in some extreme case, he had gone entirely outside and divorced himself from his duties, thrown off his duties; as, for instance, if he had resigned, or left the United States, or become insane, then he would not be engaged in the discharge of an official duty, of course not.

This illustration was brought up by a distinguished lawyer, who said: "Suppose the President should go to New York on business and stop at a private house over night where no one knew him or of his official character. While he is asleep a burglar breaks into his chamber, and the President resists the burglar, and the burglar, not knowing who he is or his official character, kills him. Now, certainly there is a case where the President is not actively engaged in the performance of his official duties, but still he is charged with the official duties, and therefore he is in and about the discharge of his official duties, and this law would protect him and protect the Government."

Mr. McDERMOTT. But that is not the wording of the act at all.

Mr. RAY of New York. And this man who kills him can not escape upon the theory that the President was not in the discharge of his official duties, and he can not escape because he did not know that he was killing the President, because a purpose to interfere with the Government of the United States is not essential to the criminality, and there is nothing in the bill that makes the intent a necessary ingredient of the crime.

Mr. McDERMOTT. Section 13 of the bill does not provide that a certain result shall follow from conditions that may be stated as these when he is President of the United States or when he is charged with an official duty. The distinctive words are these: "When in the performance of an official duty." The President of the United States is always, from the date of induction to the expiration of his term, charged with an official duty, and therefore I believe during that time that the assassin should be dealt with as provided by this bill. What I am afraid of is that you are providing a loophole of escape. The bill does not provide certain results shall follow during the time he is charged with the duties of President, but that the result shall follow if the assassination is while he is in the performance of his duties.

Mr. RAY of New York. The courts so hold that while he is charged with the performance of official duties he is in and about the performance of his duties. We have used the language of the Supreme Court—a good authority.

Mr. McDERMOTT. I did not propose, Mr. Chairman, to intrude upon the time of the gentleman who has the floor.

Mr. NEVIN. That is all right.

Mr. BOWIE. Mr. Chairman, I would like to ask a question of the gentleman from Ohio.

The CHAIRMAN. Does the gentleman yield?

Mr. NEVIN. Yes.

Mr. BOWIE. There has been very considerable suggestion throughout the United States that an anarchist who, because of his views, attempts to kill the President of the United States ought to be punished by death, just the same as if he had succeeded. For instance, if Mr. McKinley had gotten well, there was a considerable view throughout the United States that the man ought to be punished by death anyway and that that was a defect of the law. Now, I would like to have some explanation of it, why it is that the committee in its wisdom did not think that the anarchist who fired at McKinley was just as guilty and just as deserving of death if McKinley had gotten well as if he died. I think his guilt is just the same.

Mr. NEVIN. That matter was considered in committee, of course, and discussed there. I remember its being stated, and we found it to be so, that in no civilized country has an attempt to commit a crime ever been punished the same as the successful act. We do not know anywhere in any civilized country of Europe or on the globe where an attempt to do a thing is punished with the same degree of punishment as the completion of the act, nor ought it to be.

Mr. BOWIE. There was a very strong sentiment throughout the country to the contrary.

Mr. NEVIN. It is true that the intent is the gist of the crime. It is true that the act of a person who kills another may be absolutely harmless in that, there being no intent, he was not guilty of the offense. I do not believe it to be right to make the punishment for a mere attempt, even though it be a severe attempt, the same as though the crime had been completed.

Mr. BOWIE. Does the gentleman not think there is a difference between the ordinary case of murder for private malice and that of a man undertaking to destroy the Government, which an attack on the Chief Magistrate is? It seems to me there is quite a distinction.

Mr. NEVIN. Yes, so far as the result is concerned. So far as the intent is concerned, no. I would have much more sympathy for a poor, deluded, half-witted person or lunatic who has been led into committing a crime of that sort than I should have for a

cold-blooded assassin who killed another in order to wreak his vengeance or for gain.

Mr. BOWIE. But the public danger is not so great.

Mr. NEVIN. That is true; but I may say that in drawing this bill the Judiciary Committee attempted to make it severe and yet not so severe as to defeat the purposes we had in view.

Mr. LANHAM. May I interrupt the gentleman?

Mr. NEVIN. Certainly.

Mr. LANHAM. I want to draw attention to the suggestion made by the gentleman from New Jersey [Mr. MCDERMOTT] relating to this last section of the bill—section 13. In a criminal trial, as I understand, it is an elementary rule laid down, as old as the law books, that the guilt of the defendant must be fully established by the Government.

Mr. NEVIN. Beyond a reasonable doubt.

Mr. LANHAM. I fully agree with the proposition that a man is presumed to intend the legitimate consequences of his own act, and he is presumed to be sane, and if he sets up the plea of insanity, then the onus probandi is shifted from the State to the man to show that as an affirmative fact. But here you are presuming, not as to the defendant, but as to the person killed. Are you not reversing this elementary and fundamental principle of evidence and presuming against the innocence of the defendant?

Mr. NEVIN. No; you are not presuming against the innocence of the defendant; you are simply presuming that something is the fact as to the person who was killed. It may not affect the innocence or guilt of the defendant at all.

Mr. LANHAM. Then are you not shifting the burden of proof?

Mr. NEVIN. As to that, yes; certainly.

Mr. LANHAM. Do you think such a thing is sound in criminal jurisprudence?

Mr. NEVIN. There can not be any question of that fact; that is just what we are doing. What I was about to say is that we have tried to frame a bill which will be severe enough and far-reaching enough in its effect to make all these so-called anarchists—these assassins—understand that they must deal with the Government of the United States, that in Federal authority is vested the punishment of the crime, and that in just so far as all the resources of this Government can be put to that end they will be hunted down and extinguished. The moral force back of the law—the idea that the Government will hunt them down—we believe to be one of the great merits of this bill.

Perhaps every one of you has read more or less of the history of the assassins, how the term assassin originated, and how the band took its origin. It is said that along about the eleventh century there were three persons, students of an illustrious teacher at Nishapur, called Mowafek. These three students were Omar Khayyain, Hassan Sabah, and Nizain ul Mulk, afterwards vizier to the Sultan Alp Arslan; that they agreed with each other that if either one of them should rise to great eminence he should take care of the other two. One of them became vizier of the Sultan, next in power over the country to the ruler himself. Then Omar and his fellow-student, Ben Hassan, made their claim upon him for recognition. To Omar, who turned out to be a great astronomer and a Persian poet, he gave an annuity.

This one of the trio settled down to reading the stars and writing poetry, one of his productions being the Rubaiyat, which has been translated into English and will live forever. But Ben Hassan sought a place in the Government, and as soon as he was placed in power by his friend and fellow-student began to form intrigues to suppress his benefactor. In this effort he would have succeeded had not his scheme been discovered; and then he was driven away. He went out and became "The old man of the mountains."

From his name Hassan has come the word "assassin"—a word recognized among all the people of Europe. With Hassan originated this organization. The old man went out into his mountain fastnesses, from which, instead of sending armed bands against his enemies, he would choose one of his followers to go against his enemy and kill him with dagger or knife, for there were no pistols or guns in those days.

Thus that little band grew until it became the terror of all that eastern country. Finally, however, it was hunted down by just such an effort in those days as this bill will be on behalf of our Government. The strong hand of government was stretched against that organization. Gradually those assassins were hunted down till they ceased to exist and their power was no longer feared. It is the certainty rather than severity of punishment that deters.

You all know, too, of the history of the Thugs of India—a band of murderers, stranglers, assassins, bound together by a creed, a religion, worshiping the Goddess Bowanee—a band that slew literally by the hundreds and thousands. Yet strange to say they never strangled nor slew one single Englishman. An Englishman could walk through that country alone, unarmed, right among those bands of Thugs and he would not be molested. No attempt was made to put a rope around his neck to strangle him. Why? Because in the person of an Englishman was represented the majesty and the dignity and the celerity of the English law. Those Thugs knew that if one of them slew an Englishman he would be hunted down, his whereabouts would be searched out, he would be finally discovered, and then the strong arm of the English Government would be directed against him. Eventually the English Government enacted laws for their suppression and from that hour they were doomed and in a few years the Thugs ceased to exist.

So in this country the anarchists were beginning to do as did the Old Man of the Mountains at the head of his band of assassins—as did the Thugs, organize and issue their propaganda. The members of this organization of assassins were coming over here from all parts of the world; they were sending their emissaries from here across to Italy to kill its King. These anarchists were going here and there to carry out their infamous purpose. We were making an abiding place for them. We were almost welcoming them as if they were good, law-abiding citizens. But now, let this law be passed and all will change; let us enact this bill into a law—a law which provides not only for the execution of persons who thus kill, but that keeps from our shores all persons that do not believe in organized government—and their doom is also sealed.

Let it be understood that the secret-service arm and power of this Government—yea, the Army and Navy, if necessary—and, above all, the sentiment of the whole American people, as embodied in this law, are arrayed against them, and very soon, as in the case of that "Old man of the mountains" and the Thugs, you will find these modern assassins melting away; not so much by reason of the severity of the law, not so much by reason of the fact that these crimes will be punished any more certainly and swiftly than they have been under the State governments, but by reason of the fact that these assassins will know when the effort to discover and punish is once started it will never cease, that the vigilant eye of the Government will be on them, and that, as in the case of counterfeiters, post-office robbers, and the like, there will be for the persons who commit this crime against the Government of the United States no place from one end of the earth to the other where they can feel secure. [Loud applause.]

I say to you, gentlemen, that in my judgment, if you take this law just as it is—and it is the best we could do for you; we considered it long and earnestly; we considered it conscientiously—I say if you will take and pass this law, in my opinion in less than one year from to-day you will drive the red flag of anarchy from the land, as you have already driven the black flag of piracy from the sea. [Applause.]

Mr. LANHAM. I yield now to my colleague on the committee, the gentleman from New Jersey [Mr. PARKER].

Mr. PARKER. Mr. Chairman, I desire especially to thank my friend, the gentleman from Texas [Mr. LANHAM]. He knows that my views on this bill are not his views. While he thinks that the Constitution does not extend to the protection of the President of the United States and the suppression of crimes against the Government in the way provided by this bill, I believe it does so extend. We both feel and know, however, that this legislation is not one of mere politics. We stand together in our wishes.

Three Republican Presidents have died by the hand of an assassin. Democratic Presidents may die by the assassin's hand.

It is well that this bill has now come before the House for action. It ought to have been the first work of this session. It is unfortunate that any differences of opinion in committee have delayed the bill so demanded by the whole people of the United States, who insist that the majesty of the law should step in to provide against the change of government by assassination, from whatever motive.

I am for this bill, if we can not secure a better one, but I wish a better one. I believe that in the well-considered words of the Judiciary Committee of the House, far superior to those of the Senate: "Any person who unlawfully, purposely, and knowingly kills the President of the United States" (I omit the limitations) "should suffer death," without limitation as to motive.

Mr. GILBERT. Will the gentleman allow an interruption?

Mr. PARKER. Yes.

Mr. GILBERT. There is one feature of the bill that is troubling me a little, and that is this: Suppose a man is indicted in the Federal court for a violation of that statute. Now, under the Kentucky law, where there are different degrees of the offense, a defendant is always presumed to be guilty of the lesser degree. Under this statute you make him guilty, presumptively, of the higher degree. In other words, you presume under that statute that the President has been killed by reason of the fact that he is President.

Now, suppose that that can not be established in the progress of the trial, and the man should be acquitted of that particular

offense; could he afterwards be indicted in a State court for murder? Could he plead once in jeopardy, in bar of a subsequent prosecution in the State court?

Mr. PARKER. If the gentleman had listened to me he would not have asked that question.

Mr. GILBERT. I tried to listen.

Mr. PARKER. I have left out provision as to the motive of the act. It should be left out of the law. The man who unlawfully, purposely, and knowingly kills the President should suffer death, and you should not look into the question whether he has a governmental or a personal motive.

Mr. GILBERT. But that is not the wording of the law.

Mr. PARKER. I will vote for the law if I can not strike out those words. But I am with my friend from Wisconsin [Mr. JENKINS] that the majesty of the people demands——

Mr. GILBERT. But still now, as a lawyer, and construing this statute or this bill as reported by the majority of the committee, what, in your judgment, would be the result of an acquittal in the Federal court for this specific offense?

Mr. PARKER. I think it would be dangerous.

Mr. LITTLEFIELD. The trial for the Federal offense would be in a Federal court, and the trial under the State law for murder would be in the State court. The two cases would be in different jurisdictions, and therefore the question of once in jeopardy would not arise.

Mr. PARKER. Excuse me. Did the gentleman from Maine desire to say anything?

Mr. LITTLEFIELD. No.

Mr. PARKER. I think it is dangerous. It would, perhaps, result in an acquittal in the State courts. A man could, perhaps, not be called to account twice for the same offense. If we mean to take hold of this subject, we must take hold of it by a law which the people will recognize as meeting the issue and which in the minds of the people shall not be ridiculous.

Mr. GILBERT. The gentleman from Maine just now suggested that because the man would be tried in two different jurisdictions the doctrine of once in jeopardy would not apply. I do not think that is good law in my State. If a man is tried for violation of a municipal law in a municipal court in Kentucky, and is acquitted, that does not prevent his being tried under the State law in a State court.

Mr. PARKER. I have no answer to make to that now. Those are details with which the gentleman from Maine may deal when he takes the floor. I propose to argue now why those words should be left out, why every Democrat and every Republican should insist that those words limiting the motive, intention, and circumstances should be left out of this statute. Whether this should be done by the substitute of the gentleman from Wisconsin or by amendment striking out those words from the particular section is another question.

Mr. Chairman, the country demands action. The gentleman from Texas and the gentlemen on the other side, South and North, West and East, concede that the time has come for action. At the time of the Revolution the doctrine of the right of resistance, by rebellion, if necessary, was popular. It has been established in this country.

But there was not one of the great men who stated the crimes of George III and aroused the people of this country by a declaration of independence to make war against him by land or sea. There was not one of them who would have said yea if assassination had been proposed. They felt as we did years ago, that this was impossible, and that except in the tragedies of Henry IV and William the Silent civilized nations knew nothing of assassination as a means of change of government, and that it was needless to provide special penalties against that crime.

But what have we seen? The great President of the civil war was stricken down in the moment of his triumph. "Sad life cut short just when its triumph came." We have seen Garfield murdered. And now we have seen that lovely man, the friend of the people, whom we all knew, struck down by an assassin. And the roll is not exclusively American, not merely of three Presidents in forty years. It includes the Czar of the Russias, dynamited; the President of France; the liberal premier of Spain, Canovas; alas! it also includes the sweet and lovely and mourning Empress of Austria.

In the presence of these calamities "the Old World and the New, from sea to sea, utters one voice of sympathy and shame." The New World as well as the Old says that this must not longer be. We agree except as to the form of the law. But as to the form, the whole people demand that it shall not be doubtful and that it shall be made effective so far as the President is concerned.

We have agreed upon provisions for carrying out international law as to ambassadors, but I do not argue that. I agree with the provisions of the bill, and differ with my friend from Wisconsin, that the succession should be protected, as well as the President; but I do not argue that. The danger, the practical difficulty, which we must always consider when we are discussing the meaning and the purpose of a penal statute, is the fact that the dagger and the pistol are so often directed against the man who is first in the State.

Be it from principles of anarchy, be it from lunacy, be it from that wondrous conceit which sometimes leads a man to crime for the mere sake of notoriety; be it from private quarrel, be it from any motive that is unworthy in any case, to strike down the President is a crime against the Government. Why need we argue that the killing of the President is a crime against the Constitution of the United States? We have read our Blackstone, those who are lawyers, but common sense also tells us that any injury to the public weal, to the commonwealth can be rightly punished as a crime. The question is not of injury to the man.

Lincoln, that long-suffering martyr—death brought cessation of the woes of war and of the responsibilities of peace. It was upon the people of these United States that the blow fell, when the bitterness of the North, the victorious North, was aroused against the conquered South. It is they that mourned him and it is we that mourned him. But the hand of the assassin, whether his motive was, as he shouted, "Sic semper tyrannis!" (So always to tyrants!) or whether it was the vanity of an unsuccessful actor—whether he was crazed or half crazed or not—his blow fell not on that long-suffering man who sat for long-needed rest in a theater, but upon the people of the whole country. When such an injury is done, Congress may rightly make it a crime.

When McKinley fell—he who was trusted by all, he who had brought together the two parties of this country under one flag, he whom they were ready to follow in the reconstruction of our new possessions—the blow fell not upon him. He departed from a hard-working, tiresome life to that place where the good are rewarded. The blow fell upon us—upon the people. Surely the killing of the President is an interference with government and injury to the Constitution. When that Constitution was adopted, to have killed the President would have put the Presidency in the hands of the opposite party.

Up to a few years ago it would have put the Presidency first in the hands of the President of the Senate and then in the hands of the Speaker of the House, and they might well have belonged to the opposite party, and the whole policy of the Executive might have been changed. As it is now, the work of the assassin takes the Presidency from the hands of the man who was elected thereto, and puts it first in the hands of the man who was elected only as a substitute, and then with those who are named by that substitute in the Cabinet.

Can any man pretend that the act itself, whether or not done by reason of official character or done by reason of official acts or done to a President engaged in official duties—can anyone pretend that that act, however done, does not have a wrongful, harmful influence, which is not contemplated by law, upon the institutions and the Government of the United States, changing the policy with its Executive, and perhaps introducing anger and malice, as the death of Canovas brought Weylerism into Spain. We remember our own examples. This is not mere theory law; it is elementary law. Treason by the English law was not odious because it was an act against the king, against his person, but because of the attack upon the realm. I read from the seventy-seventh page of the fourth of Blackstone:

When a man doth compass or imagine the death of our lord the King, the King here intended is the King in possession, without any respect to his title, for it is held that a King be de facto and not de jure, or, in other words, an usurper that hath got possession of the throne is a King within the meaning of the statute, as there is a temporary allegiance due to him for his administration of the Government and temporary protection of the public, and therefore treasons committed against Henry VI were punished under Edward IV, though all the line of Lancaster had been previously declared usurpers by act of Parliament.

Blackstone says distinctly that every crime against the Government may involve likewise a private injury—that is to say, a person in imagining the King's death involves in it conspiracy against the individual—that is to say, a civil injury—and as this species of treason in its consequence principally tends to a dissolution of the Government, and destruction thereby of the order and peace of society, that is denominated a crime of the highest magnitude.

III Blackstone, page 2: Public wrongs are a breach and violation of public rights and duties which affect the whole community, considered as a community, and are distinguished by the harsher appellation of crimes and misdemeanors.

IV Blackstone, page 5: Public wrongs or crimes and misdemeanors are a breach and violation of the public rights and duties due to the whole community, considered as a community, in its social aggregate capacity. * * * Treason, murder, and robbery are properly ranked among crimes, since, besides the injury done to individuals, they strike at the very being of society, which can not possibly subsist where actions of this sort are suffered to escape with impunity.

In all cases the crime includes an injury; every public offense is also a private wrong and somewhat more; it affects the individual, and it likewise affects the community. Thus treason in imagining the king's death involves in it conspiracy against an individual, which is also a civil injury; but as this species of treason in its consequences principally tends to the dissolution of government and the destruction thereby of the order and peace of society, this denominates it a crime of the highest magnitude.

Let us apply these words. A man who conspires against and kills the President commits a crime against the State in killing an individual and disturbing the public peace. That is tried by the State and not by the United States. But, at the same time, and inasmuch as he likewise disturbes the General Government and the peace and order of society in that Government by killing the President, it is rightfully a crime against the United States and all who support that Government.

Mr. GILBERT. Could he be punished for both?

Mr. PARKER. I think the greater includes the less. This is a new question, and I answer it with all humility, as a lawyer must do a question that has never been determined. If a man is indicted for murder, and acquitted, he can not be afterwards seized for assault and battery. I think that may be so here.

Mr. RAY of New York. Will the gentleman permit an interruption?

Mr. PARKER. Certainly.

Mr. RAY of New York. The gentleman says it is a new question. If the gentleman will turn to the RECORD, to the cases I have cited in connection with my remarks on this bill, he will see times that where some act offends against the General Governthat it is not a new question—that it has been decided a half dozen ment and also against the State the offender may be tried by the General Government for the act, and, if convicted, he must satisfy its judgment, and then the State may take him for the same act and try him and imprison him again, not for the same crime, for the crimes are different.

Of course, if one has taken the life of the criminal, he is beyond a second punishment. And vice versa. In the one case it is an offense against the United States, an infringement of the power and sovereignty or the United States, and in the other it is punished by the State because it is an infringement of the sovereignty of the State, a breach of its peace, and therefore one may punish and then the other, and a plea that he had been convicted for a crime growing out of that act—not that offense, because it is not the same offense—in the United States court, is not a bar to a prosecution in the State court.

Mr. GILBERT. But suppose a man is being imprisoned in execution of a judgment of the Federal court, or suppose he is in the penitentiary in execution of a judgment of a State court, can he be taken out of the jurisdiction of one and transferred to the other while the punishment is going on?

Mr. RAY of New York. Oh, the gentleman is asking if the United States would go into a State where the State had convicted a man and put him in prison—if the United States would take him from the State and proceed against him while the punishment under the State judgment was being executed.

Of course the United States would not do that, even had it the power, nor would the State do it against the United States, because the United States is supreme. The United States might possibly have power to take a prisoner away from a State, but I do not believe it would; and if it had the power, it would never exercise it But a law may be enacted to cover such cases and permit a trial by the Federal authority even when the judgment of the State is being executed.

The gentleman ought to know there is no doubt of the constitutionality of a bill doing that very thing because the Committee on the Judiciary has reported such a bill in this Congress and I think at his request—a bill I am informed introduced by him—a bill which will permit the taking of a prisoner from one jurisdiction to be tried in another jurisdiction and providing for his return to the jurisdiction from which he was taken, and after satisfying this other jurisdiction. The gentleman knows perfectly well that that can be done by law; but it would have to be done with the concurrence of the two jurisdictions.

Mr. STEWART of New Jersey. Can the gentleman conceive of the case of a person tried for murder in a Federal court and acquitted and then tried by a State court for the same offense?

Mr. RAY of New York. A man can not be tried in the United States of America in a Federal court for a murder committed within a State, because, as has been held over and over again, the offense of murder is cognizable only by the State; murder is an offense against the State, the peace of the State, and the State only.

But if the man murdered is an officer of the United States, then it is not the offense against the State which the United States punishes. It punishes the offense against the Government of the United States, the sovereignty of which is infringed and resisted when an attack is made upon an officer of the United States. The ground of jurisdiction and action in the two cases is entirely different.

Mr. STEWART of New Jersey. Suppose this bill should be passed and Mr. Roosevelt, being President of the United States, should be killed in the city of New York. Suppose the murderer is indicted and tried here in the city of Washington under this bill.

Mr. RAY of New York. That could not be. No such thing could be done; because the Constitution of the United States in express terms says that whenever an offense is committed against the United States the offender must be indicted and tried in the State in which the offense is committed.

Mr. LANHAM. In the district.

Mr. RAY of New York. Yes; and in the district in the State previously defined by Congress.

Mr. STEWART of New Jersey. But under this bill, suppose the man in the case I have supposed is tried before a Federal court and jury and is acquitted, could he then be indicted and tried in a State court?

Mr. RAY of New York. In New York?

Mr. STEWART of New Jersey. In New York.

Mr. RAY of New York. Certainly. That has been settled a dozen times. The ground of the offense being different, he may be tried first by the State and then by the United States, not for the same offense but for different offenses, both growing out of the same act. I refer you to United States *v.* Cruikshank.

Now, Mr. Chairman, I yield fifteen minutes additional to the gentleman from New Jersey [Mr. PARKER].

Mr. PARKER. I thank the gentleman from New York for yielding to me. I am speaking on his side and have done so from the beginning. I differ with him only in that I want to make the bill absolutely effective. I thank the gentleman for the elucidation he has made of the point that was brought out by a question. That point, however, is not essential to my argument. The law ought to be such that both crimes may be punishable, and that a man who has been guilty of murder may be punished for murder. An assassin should be punished for murder in the State courts if the United States law prove ineffective. But we hope that our bill may be so drawn as not to be ineffective. We owe that to the people, and they will hold us to the performance of that duty.

Mr. RAY of New York. May I ask the gentleman a question?

Mr. PARKER. I would rather proceed at present.

The nation has the right generally to protect its President from unlawful killing in order to protect itself. The personal motives of the criminal have nothing to do with the question. Personal motives do not justify an attack on a private citizen, much less upon the President of the United States. Self-defense makes an act lawful; but if it is unlawful personal motives do not prevent its being murder. Personal motives do not prevent an act being a crime against the Government if it be such an act as directly and necessarily interferes with the powers and functions of the Government.

No personal motives can justify or even excuse an injury to the whole people. Imagine the case of personal grudges being allowed to excuse an attack upon the President. We humble men may go through this world without much risk of a quarrel with the few men whom we are called upon to meet. But if every man who has a personal grievance with the President is allowed to attack him and find justification or excuse by reason of his personal grievance, think what would be the consequences. Think how many persons the President may meet every day. Think of how many thousands may feel themselves injured by something he has done.

Mr. LITTLEFIELD. Will the gentleman allow me a moment?

Mr. PARKER. I prefer not to be interrupted.

Mr. LITTLEFIELD. Only a question.

Mr. PARKER. Very well; I yield for a question.

Mr. LITTLEFIELD. I understood the gentleman to state that the intent—in other words, the motive—of the party had nothing to do with the crime. Did the gentleman really mean to be so understood?

Mr. PARKER. In the sense in which I have given it, yes. When you take a pistol and hold it at my head and shoot, your intent to kill is presumed.

Mr. LITTLEFIELD. Oh, yes.

Mr. PARKER. Your motive in the act is of very little importance. Personal motives sometimes excuse, though they do not justify, an attack upon a man. No personal motive can justify an injury to the whole people. Personal motives in the case of grave injuries sometimes excuse a man in taking a rifle and shooting another. They may not justify him, but they excuse him in the minds of a jury. But if that man stands in the midst of a crowd of innocent people, so that the rifle shot from his hands may kill an innocent person, he is held to the consequences. So here.

A man might have personal motives against the man that is President, but if he act upon those personal motives, those personal grudges, or that personal quarrel, and kills the President, he shoots, through the President, at the whole people of the United States. He breaks up the Government. He can not be justified in the law; he must be held to have intended what he did, namely, to change the Executive of a nation by violence. No law will meet the demands of the people which asks to go

into what his reasons were, if he intentionally, willfully, and unlawfully did the act.

Now, the common law continually makes the distinction, and makes lawful private acts unlawful whenever they interfere with the public peace or governmental functions. You can take an execution lawfully against a man to take his body, but on that execution you can not break the door of his private dwelling because it disturbs the public peace. Even a lawful act is thus unlawful where it interferes with the peace of the community, just as what might be an excusable act may be unlawful where it interferes with the peace and government of a nation. The law allows a private owner, by gentle resistence, to prevent trespass upon his land, but if he finds it will lead to bloodshed he must yield rather than break the peace.

Mr. RAY of New York. May I interrupt the gentleman there?

Mr. PARKER. Wait until I get through with the sentence. The law allows a man to pass through the public streets. It orders him not to pass if his passage would add to a riotous crowd. The law allows a man to repel violence, but not by such means as would fall upon innocent parties. The law always in dealing with public matters deals with the question of public welfare and even takes away private rights. Much more shall it hold that a wrong to a man which likewise interferes with governmental functions shall be held an injury to the Government, a governmental crime. Now I will yield to the gentleman from New York.

Mr. RAY of New York. I understand the gentleman to say—and I will repeat it to see that I did not misunderstand him—that a man might by gentle force repel another who undertook against his will to trespass or force himself upon his land.

Mr. PARKER. On his land, not in his house.

Mr. RAY of New York. But that he could not go beyond that. Is that what I understand?

Mr. PARKER. The law in our State is that if it will lead to bloodshed, he must go no further. I know the other to be the common law.

Mr. RAY of New York. But we are talking here about United States law, and the Supreme Court of the United States—and I will call the attention of the gentleman to the case—has decided that the owner of land in peaceable possession may stand there and forbid a man to come on, and he may repel him by gentle force. If he still persists in coming, he may defend the possession of that land, as well as his house, by the exercise of necessary force, even to the taking of life.

Mr. PARKER. Let me admit it. I do not want to dispute with the gentleman. The law in England held the contrary and the law of many of the States holds the contrary. I am simply giving examples in which the law makes the public benefit paramount, and I may say, as in this case, that to kill a President is not so much an injury to the man as an injury to the country, and that the man who does that injury willfully and maliciously shall be punished for that wrong to the nation.

All these cases are governed by the great legal principle that private rights may not be set up in such a manner as to invade public rights, and even that the private injury shall be merged sometimes in that of the public, so that sometimes the only remedy is by indictment and only the public injury may be prosecuted. These principles are fundamental. It is against all principle of government that a man may prosecute his private injury against the President by personal violence which would interfere with the President's official action. It is not because there is any divinity in the man. It is because the whole nation hangs upon the office, and therefore, without limitation of motive, whosoever in the United States or any place subject to its jurisdiction willfully, maliciously kills or causes the death of the President should be subject to death.

There is no political question in this. The great Democratic lawyers of the Senate have united in a section which so says. It seems to me that in the endeavor to follow decided cases and case law the gentlemen who have reported in favor of this limiting clause of the bill—not of the bill, for I am in favor of that, but the gentlemen who have reported in favor of the limitations—have entirely escaped and forgotten the principles upon which a statute of this kind should rest.

Those cases do not support their views. They have been so thoroughly analyzed by the gentleman from Wisconsin [Mr. JENKINS], a member of the committee, that it is only necessary briefly to point out to the House what those cases decide. There is a long line of cases decided in the Supreme Court holding that a marshal or deputy marshal can not be indicted and convicted except for an act performed within his official duties.

Mr. RAY of New York. You do not mean that. You do not mean what you have just said.

Mr. PARKER. I do not mean that. I mean that the person who interferes can not be convicted, except when the marshal is engaged in the performance of an official duty.

Mr. RAY of New York. The person assaulting or resisting one of these officers can not be indicted by the United States courts except where the officer is engaged in the performance of an official duty if the offense be committed within a State.

Mr. PARKER. The person who attacks the marshal can not be indicted unless that attack be made against the marshal in the performance of his official duties——

Mr. RAY of New York. That is right.

Mr. PARKER. Now, gentlemen, do not interrupt me, but please let me go ahead. I object to that sort of an interruption.

The CHAIRMAN. The gentleman declines to be interrupted.

Mr. RAY of New York. I simply want to ask a question, that is all.

Mr. PARKER. Fifty questions would divert me from my argument.

Mr. RAY of New York. I only want to ask one question.

Mr. PARKER. Go ahead and ask one question. I was in the middle of a sentence.

Mr. RAY of New York. I want to ask the gentleman if it was not held in England that if the lawful king was out of his office and a usurper was in, that then it was not treason to kill the lawful king?

Mr. PARKER. Yes; it was so held.

Mr. RAY of New York. Therefore——

Mr. PARKER. No; let me answer that. I do not want to be further interrupted. I am glad the gentleman called my attention to that, for it is in what I have read. It was held that to kill the lawful King was not treason, because he was not reigning and the people were not depending upon him. It was held that to kill the usurper was treason, because the people were depending upon him. You will find that in 4 Blackstone, 77. The point was always whether the man the King was vested with the actual office, and the point in this case is not whether the President is signing a paper, but whether he is President, charged with the duties of that office—functus officio. If so, to kill him is to take away that office from the choice of the people and put it in the hands of some other person not chosen by the people.

Now, the gentleman has interrupted me in the middle of a sentence with an outside question. The cases cited by him were cases which said that a man could not be indicted for assaulting a marshal unless the marshal was engaged in the performance of his official duties. It is true; but if anyone here in this House will look at section 5398 of the Revised Statutes he will find that it is provided by statute that any man who obstructs, resists, assaults, or prevents a marshal from executing a writ intrusted to him shall be punished, and the decisions of the courts were under that statute. I quote from memory.

Gentlemen do not notice the next section of the Revised Statutes, section 5399, which I commend to their consideration, although it is not in point, except on the point that they now bring up. Section 5399 provides that every person who corruptly or by threats or force endeavors to influence, intimidate, or impede any witness or officer in any court of the United States in the discharge of his duty, or corruptly or by threat or force obstructs, impedes, or endeavors to obstruct or impede the due administration of justice therein, shall be punished.

It has never been held under that statute that you had to threaten the witness when he was in court giving testimony. It has been held that it was an infringement of that statute for a man to threaten with a pistol a man who was counsel, and tell him if he proceeded with the examination he would kill him. The point is not whether he was actually engaged in those duties, but whether those duties were laid upon him. If those duties were laid upon him, to tell the truth or to proceed as counsel, and as an officer, just as greater duties are laid upon the President of the United States, and a mere threat is criminal, much more the killing of a man, to prevent the performance of that duty.

Mr. LITTLEFIELD. Will the gentleman permit me to interrupt him?

Mr. PARKER. If it is on this point.

Mr. LITTLEFIELD. It is right on this point. You cite section 5398 as well as 5399. I understand you to say that the decisions are under that section?

Mr. PARKER. No; not all your decisions.

Mr. LITTLEFIELD. Oh, very well. I understood you to say so.

Mr. RAY of New York. Will the gentleman name any one decision that I have cited that is under that section? I have failed to discover any in the discussion of that section.

Mr. LITTLEFIELD. Not a single one.

Mr. RAY of New York. Not a single one, and every case I have cited was under the other section of the statutes or not under any statute at all.

Mr. PARKER. I think that the decision which is cited by the gentleman—I do not know whether I could turn immediately to the page, as I am not as familiar with his own report as he is—

but I think you will find one dicta of the court to which he refers——

Mr. CRUMPACKER. But not the same section, except one.

Mr. PARKER. I will not discuss that question. I am giving my opinion, and I only incidentally turned to this subject.

Mr. LITTLEFIELD. But I am going to state——

Mr. PARKER. The gentleman must not interrupt me. It is a quarter to 5, and I want to conclude my remarks in that time.

Mr. LITTLEFIELD. Now, the gentleman does not want to make any imputation, as has been made.

Mr. PARKER. There is nothing in anything that I have said in which I meant any imputation upon the gentleman.

Mr. LITTLEFIELD. I did not think you did.

Mr. PARKER. But he did not, I hope, understand that such an imputation had been made.

Mr. LITTLEFIELD. But I thought your remark applied to me.

Mr. PARKER. I did not intend it. I never had anything but courtesy from the gentleman, and never intend to have anything else. He and I are good friends. I know what any man suffers who comes under his lash.

Mr. LITTLEFIELD. But you need have no fear about that.

Mr. PARKER. Well, there will be no question about that, then.

Now, there are other cases referred to by the committee—cases under the fourteenth amendment of the Constitution and civil-rights act. They are not cases as to officers, but only decide that the fourteenth amendment of the Constitution will prevent the States from passing laws which would impair civil rights, but do not confer upon the United States the right to pass laws to take charge of those rights and guarantee them. Have I stated that correctly?

Mr. LITTLEFIELD. Yes.

Mr. PARKER. Now, the last case particularly referred to by the committee is the Neagle case. I looked over that case some months ago. It is oddly enough founded upon a statute. Neagle, remember, was a marshal of the United States; he was attending the judge passing from one part of California to another while holding circuit, and he shot down a man who attempted to attack him.

Mr. LITTLEFIELD. Would the gentleman desire aid to correct him in his recollection?

Mr. PARKER. Not in this.

Mr. LITTLEFIELD. Because the majority and the minority opinions state that there was no statute. That was the great controversy in the case.

Mr. PARKER. On the contrary, there was a statute.

Mr. LITTLEFIELD. In that case?

Mr. PARKER. In that case. I have been through it, and I challenge the gentleman with reference to my recollection in this matter.

Mr. LITTLEFIELD. I may be wrong, possibly.

Mr. PARKER. There was a statute of the United States which gave the marshal of the United States the same power as the sheriff of the State in which the district was situated.

Mr. LITTLEFIELD. You are right about that.

Mr. PARKER. There was a statute in the State of California which gave to the sheriff the duty—I am speaking not in exact words—the duty of attending and taking care of the court while the justice was upon the circuit. Thereupon the question came up, first, as to whether the marshal had the same powers as the sheriff, and that was decided in the affirmative in the interests of the United States.

The question likewise came up whether the judge traveling the circuit was to be considered as holding court, so that the marshal was actually in charge, and it was decided that in traveling from one point to another it should be held that he was holding court. The point, therefore, was whether the attack was made upon him when he was in the discharge of his official duties, when the marshal was his personal protector under the statute of California. Now, the sheriff, under the political code of California, had the right to "prevent and suppress affrays, breaches of the peace, riots, and insurrections." There is a statute which made the sheriff attend upon the judge at the time of the court.

Mr. RAY of New York. If the gentleman will permit, there was a statute of the United States which gave to the United States marshal precisely the same power and the right to exercise precisely the same duty as the sheriff in the State of California. Now, if you have the statute, I will not state it further.

Mr. LITTLEFIELD. There is a statute which the gentleman from New Jersey referred to, but the use made of it in that case was not the use which the gentleman had in his mind.

Mr. RAY of New York. There was no statute giving jurisdiction to anybody to protect the officer, either in the performance of his duty or otherwise. The Attorney-General directed it to be done. He acted for the President.

Mr. SMITH of Kentucky. It was a statute that provided that the officer should prevent breaches of the peace.

Mr. PARKER. It was a statute giving the sheriff power to prevent breaches of the peace and riots and insurrection.

Mr. RAY of New York. And giving the United States marshal the same power that the sheriff had under the laws of California. The point of it is that there was no statute providing especially for the protection of the justices of the Supreme Court. Hence the decision defining the jurisdiction of the United States in such cases under the Constitution.

Mr. KLEBERG. There is a civil statute that requires the marshal to attend and open court.

Mr. LITTLEFIELD. But the use made of the statute was not the use that the gentleman from New Jersey had in his mind. I am absolutely certain of that, for I have read the case within two hours.

Mr. PARKER. Now, Mr. Chairman, the Neagle case is not authority here. In order to assert the exclusive jurisdiction of the United States court in the Neagle case—that is to say, the right of the United States court to take the marshal away from the State court, where he was held under indictment for murder—it was necessary to assert and to prove that the marshal was then engaged in a particular duty imposed upon him by the law. It was held to be his duty to attend the judge while holding court.

It was essential to show that in doing what he did he acted within his duty and powers as marshal of the United States; otherwise the United States jurisdiction was not exclusive under the statute. But that does not say that the United States can not pass a law which shall protect the President and his office, for his office is his duty. It does not say that Congress may not say that no man with a pistol shall destroy the office of President and turn it over to some one else. It does not say that a pistol shot against the Executive shall be merely a murder unless the President is sitting down with a pen in his hand and engaged in his official duty.

It does not say you shall look into the motives in the mind of the man in doing the act when the consequences of whose act are so direct that an intention to interfere with the Government of the United States must be presumed. Neither does the Constitution declare any such folly. The law has been decided over and over again, and first by Chief Justice Marshall in the great case of McCulloch against Maryland, that the Government has all powers that are necessary in order to carry the Constitution into effect and to protect its operations. And the greatest of all these operations of the Constitution, the greatest vested in any one man, is the executive power and the discretion vested in the President of the United States.

Mr. Chairman, I have not concluded what I have to say.

Mr. LITTLEFIELD. Mr. Chairman, I ask unanimous consent that the gentleman may have leave to proceed and finish his remarks.

The CHAIRMAN. The gentleman from New Jersey has five minutes remaining.

Mr. PARKER. I will use that five minutes, Mr. Chairman, and may be able to get through in that time. The natural and necessary result of a successful assault upon the President would be to prevent his doing his official duties.

What difference is there if he is then engaged in them? If so engaged, the assault stops the performance of his duties. If not so engaged, the assault prevents the performance of those duties. They are not special and single duties imposed upon him by any writ or warrant. They are continuous, or, rather, recurrent, and the recreation he takes—his sleep, rest, and recreation—are but his preparation for continuing those duties. It is not an interference with his action at any particular time that constitutes the crime. It is the interference with his office that is the crime. No divinity or sacredness is given to the man; it is only for the protection of the office that he is to be protected.

Now, I pass, if the committee pleases, to the question if there is any harm in these provisions of limitation reported by the committee. They tell us that they do no harm because he is always engaged in his official duties. Engaged in his official duties! The statute recognizes that he sometimes is engaged and that sometimes there are cases when he is not so engaged. The jury, under the instructions of the court, must decide that fact. If the facts are before them, the presumption declared by the last section stands for nothing, even if it is right, to presume a man guilty rather than innocent.

To insist that it must be proved that the President was killed because of his official character or because of his official acts is to put the burden of proof upon the Government—to compel it to prove what is immaterial and what may not be proved. The act is there; its consequences are direct. The motive to bring about those consequences must be presumed. If you shoot a man, it is no defense to prove that you had a different motive from that of killing him. Sir, such a rule would absolutely tie up courts and juries.

This bill will not commend itself to the people without amendment. We are relied upon to enact a law which shall be effective. We are trusted to do it. We shall never be forgiven if we put upon the statute books an act which is not adequate to deal with the crime. That crime is the killing of the President of the United States willfully and unlawfully. The question is not why or wherefore, or where the President is or where he is going to be. It is the fact that he is vested with this office, and that to kill him is to interfere with the functions of the office. That is the crime against which we are ordered to protect the country.

I believe that the gentlemen who have introduced those limitations are not really and heartily in favor of them. I believe that they have introduced them out of extra caution, lest the Supreme Court, following old cases, may set aside the act. Sir, there is a caution which is more dangerous than the courage which proceeds upon direct principle, which looks first to see whether there is a public injury, which determines that there is a public injury and interference with the Constitution of the United States in killing the President, and then provides that this act shall be punished by death, and which even goes further and declares that the attempt shall be punished by death. I do not agree with the gentleman from Ohio, who says that the attempt shall not be punished by death. Why, sir, the man who is successful gets the glory sought by the vain; but if he knows he is not to be punished except to a measured extent when there is a want of success, he will take the risk.

This country must have what has been found necessary in every other nation, what we thought we could get along without, what we believed the sentiment of the people would permit us to dispense with. We must have a law which will punish severely the compassing of the death of the Chief Executive of this country, not because he is any better man, not because of any injury to the man, but because such an act breaks up the Government, destroys the confidence of the people, because it separates the President from the people.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. PARKER. I will say only in conclusion that I support this bill as it stands, but I shall vote for an amendment striking out the words which I have commented upon.

Mr. RAY of New York. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. DALZELL having taken the chair as Speaker pro tempore, Mr. GROSVENOR reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (S. 3653) for the protection of the President of the United States, and for other purposes, had come to no resolution thereon.

SENATE BILL AND JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bill and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 2295. An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes—to the Committee on Insular Affairs.

S. R. 111. Joint resolution limiting the gratuitous distribution of the Woodsman's Handbook to the Senate, the House of Representatives, and the Department of Agriculture—to the Committee on Printing.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. FEELY, for two weeks, on account of important business.

To Mr. MILLER, for three days, on account of sickness.

And then, on motion of Mr. RAY of New York (at 5 o'clock and 5 minutes p. m.), the House adjourned.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, Mr. HULL, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 2845) to purchase from the compiler, Francis B. Heitman, the manuscript of the Historical Register United States Army, from 1789 to 1901, reported the same with amendment, accompanied by a report (No. 2345); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12155) granting an increase of pension to Joseph Robertson, reported the same with amendments, accompanied by a report (No. 2343); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2, Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. HULL, from the Committee on Military Affairs, to which was referred the resolution of the House (H. R. 274) requesting the Secretary of War to report to the House a detailed itemized account of expenditures made by General Wood as military governor of Cuba, reported the same adversely, accompanied by a report (No. 2342); which said resolution and report were ordered to lie on the table.

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 5104) relinquishing to Genevieve Laighton, widow of Capt. Samuel Laighton, title of United States to certain lands in the State of Arkansas, reported the same adversely, accompanied by a report (No. 2344); which said bill and report were ordered to lie on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. OVERSTREET: A bill (H. R. 14898) relating to jurisdiction on appeals in the court of appeals of the District of Columbia, and transcripts on appeals in said court, and to quiet title to public lands—to the Committee on the Judiciary.

By Mr. PEARRE: A bill (H. R. 14899) to amend an act entitled "An act to incorporate the National Florence Crittenton Mission"—to the Committee on the District of Columbia.

By Mr. GREENE of Massachusetts: A bill (H. R. 14900) to authorize the laying and maintaining of a pneumatic-tube system between the Capitol and the Government Printing Office, in the city of Washington, in the District of Columbia—to the Committee on the District of Columbia.

By Mr. CAPRON: A bill (H. R. 14918) for the construction of a submarine boat of the Moriarty type—to the Committee on Naval Affairs.

By Mr. KAHN: A bill (H. R. 14919) relating to the allowance of exceptions—to the Committee on the Judiciary.

By Mr. THOMPSON: A bill (H. R. 14920) to provide for the erection and maintenance of a Soldiers' Home in the Fifth Congressional district of Alabama, and an appropriation of $100,000 for same—to the Committee on Military Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ADAMSON: A bill (H. R. 14901) for the relief of the legal representatives of W. L. Gordon, deceased—to the Committee on War Claims.

By Mr. BEIDLER: A bill (H. R. 14902) to correct the naval record of John Rohrer—to the Committee on Naval Affairs.

By Mr. BURNETT: A bill (H. R. 14903) granting an increase of pension to James H. Martin, of Cullman County, Ala.—to the Committee on Pensions.

By Mr. FOSS: A bill (H. R. 14904) for the relief of Charles Sommer—to the Committee on Invalid Pensions.

By Mr. HILL (by request): A bill (H. R. 14905) for the relief of the representatives of M. F. Merritt, deceased—to the Committee on War Claims.

By Mr. LESSLER (by request): A bill (H. R. 14906) for the relief of Anna M. King—to the Committee on Claims.

By Mr. McLAIN: A bill (H. R. 14907) granting an increase of pension to John F. Davis—to the Committee on Pensions.

Also, a bill (H. R. 14908) granting a pension to Henry McGlodry—to the Committee on Pensions.

Also, a bill (H. R. 14909) granting a pension to Bunyan H. Byrd—to the Committee on Pensions.

By Mr. REEDER: A bill (H. R. 14910) granting a pension to Edith L. Draper—to the Committee on Pensions.

By Mr. SHACKLEFORD: A bill (H. R. 14911) granting an increase of pension to David Love—to the Committee on Invalid Pensions.

By Mr. HENRY C. SMITH: A bill (H. R. 14912) granting an increase of pension to Theodore Miller—to the Committee on Invalid Pensions.

By Mr. WILEY: A bill (H. R. 14913) granting an increase of pension to Ann M. Morrison—to the Committee on Pensions.

By Mr. KAHN: A bill (H. R. 14914) to relieve the Italian-Swiss Agricultural Colony from the internal-revenue tax on certain spirits destroyed by fire—to the Committee on Claims.

Also, a bill (H. R. 14915) for the relief of M. Esberg and others—to the Committee on Claims.

By Mr. TAWNEY: A bill (H. R. 14916) granting an increase

of pension to William W. Gilbert—to the Committee on Invalid Pensions.

By Mr. WARNOCK: A bill (H. R. 14917) to give credit to Jacob Parrott for receiving the first medal of honor for services in our late civil war—to the Committee on Military Affairs.

By Mr. HILDEBRANT: A resolution (H. Res. 288) to pay E. G. Johnson for services in caring for and regulating the House chronometer—to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BALL: Sundry petitions of various posts of the Grand Army of the Republic in the States of Colorado, Connecticut, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Montana, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Wisconsin, Washington, West Virginia, Wyoming, and Oklahoma Territory for the passage of House bill 13986 to modify and simplify the pension laws—to the Committee on Invalid Pensions.

By Mr. BEIDLER: Papers to accompany House bill to amend the record of John Rohrer—to the Committee on Naval Affairs.

Also, resolutions of Liquor Dealers' Benevolent and Protective Association of Cleveland, Ohio, favoring House bills 178 and 179, for reduction of tax on liquor—to the Committee on Ways and Means.

Also, resolutions of St. Patrick's congregation, of Cleveland, Ohio, protesting against the administration of affairs in the Philippines, especially against the disregard of the Catholic faith and institutions of the people—to the Committee on Insular Affairs.

By Mr. BURKETT: Petitions of citizens and old soldiers of Kearney, Nebr.; Lime Creek, Piedmont, Everton, and Gainsville, Mo.; Sylvia, Ark., and citizens of the State of Kansas, in favor of the passage of House bill 7475, for additional homesteads—to the Committee on the Public Lands.

Also, resolutions of the executive council of the Bankers' Association of Nebraska, in opposition to the so-called branch banking bill—to the Committee on Banking and Currency,

By Mr. DALZELL: Papers relative to continuing and compiling the House reports from the Forty-sixth to the Fifty-sixth Congresses—to the Committee on Printing.

By Mr. FOSS: Petitions of Turn Gemeinds Verein and Socialer Turn Verein, of Chicago, Ill., in relation to House bill 12199—to the Committee on Immigration and Naturalization.

By Mr. HANBURY: Resolutions of Electrical Workers' Brotherhood No. 3, of New York City, indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. HITT: Memorial of Mr. Jefferson Chandler, asking for the purchase by the Government of the buildings and contents known as the "Halls of the Ancients," in the city of Washington, D. C.—to the Committee on the Library.

By Mr. HOWELL: Petition of fire commissioners of Hoboken, N. J., favoring the passage of House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. JACKSON of Kansas: Resolutions of the Industrial Council of Pittsburg, Kans., favoring the passage of the Grosvenor anti-injunction bill—to the Committee on the Judiciary.

By Mr. KAHN: Resolutions of Brotherhood of Carpenters and Joiners' Union No. 304, of San Francisco, Cal., in relation to the Boer war—to the Committee on Foreign Affairs.

By Mr. LESSLER (by request): Papers to accompany House bill for the relief of Ann M. King—to the Committee on Claims.

By Mr. LITTLE: Papers to accompany House bill 14852, granting an increase of pension to Melvina Dunlap—to the Committee on Pensions.

By Mr. McCLELLAN: Petition of citizens of New York City, in favor of the passage of House bill 12203—to the Committee on Invalid Pensions.

By Mr. MORRIS: Resolutions of Willis A. Gorman Post, No. 13, of Duluth; Wallace T. Rines Post, No. 142, of Princeton, and Buzzell Post, No. 24, of Annandale, Grand Army of the Republic, Department of Minnesota, favoring House bill 3067, relating to pensions—to the Committee on Invalid Pensions.

By Mr. RHEA of Virginia: Papers to accompany bill for the relief of Leander J. Keller—to the Committee on War Claims.

By Mr. RUSSELL: Resolution of Men's Assembly of the Methodist Episcopal Church of Middletown, Conn., in favor of reciprocal commercial relations with Cuba—to the Committee on Ways and Means.

By Mr. RYAN: Resolutions of the General Society of the Sons of the Revolution, favoring the erection of a statue to the late Brigadier-General Count Pulaski at Washington—to the Committee on the Library.

By Mr. SCOTT: Resolutions of the Industrial Council of Pittsburg, Kans., favoring the passage of the Grosvenor anti-injunction bill—to the Committee on the Judiciary.

Also, resolutions of National Business League of Chicago, Ill., favoring the establishment of a department of commerce and industries—to the Committee on Interstate and Foreign Commerce.

By Mr. HENRY C. SMITH: Resolutions of Welch Post, No. 137, Grand Army of the Republic, Department of Michigan, favoring the passage of House bills 12203 and 12204—to the Committee on Invalid Pensions.

By Mr. SPERRY: Resolutions of the Men's Assembly of the Methodist Episcopal Church of Middletown, Conn., for reciprocal trade relations with Cuba—to the Committee on Ways and Means.

SENATE.

THURSDAY, *June 5, 1902.*

Prayer by Rev. F. J. PRETTYMAN, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

CHANNELS AT NAVY-YARDS ON PACIFIC COAST.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Navy, transmitting, in response to a resolution of the 22d ultimo, certain information from the Chiefs of the Bureaus of Yards and Docks and Navigation, relative to the depth of water at different places, at low tide, in the channel leading from the sea to the Mare Island Navy-Yard, etc.; which was referred to the Committee on Naval Affairs, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the House to the following bills:

A bill (S. 4071) granting an increase of pension to George C. Tilhman; and

A bill (S. 4927) granting an increase of pension to Hattie M. Whitney.

PETITIONS AND MEMORIALS.

Mr. FOSTER of Washington presented a memorial of the Western Central Labor Union, American Federation of Labor, of Seattle, Wash., remonstrating against the enactment of legislation to maintain the gold standard, to provide an elastic currency, to equalize the rates of interest throughout the country, etc.; which was referred to the Committee on Finance.

Mr. FORAKER presented petitions of the Liquor Dealers' Benevolent and Protective Association of Cleveland, of the Chamber of Commerce of Cincinnati, and of 10 citizens of Cincinnati, all in the State of Ohio, praying for the adoption of certain amendments to the internal-revenue laws relative to the tax on distilled spirits; which were referred to the Committee on Finance.

He also presented a resolution adopted at a meeting of the Turngemeinde of Dayton, Ohio, expressing sympathy with the people of the South African Republic and the Orange Free State; which was referred to the Committee on Foreign Relations.

He also presented petitions of the Trades and Labor Assembly of Masillon; of the Central Labor Council, of Cincinnati, and of the Central Trades and Labor Council, of Zanesville, all of the American Federation of Labor, in the State of Ohio, praying for the enactment of legislation to increase the salaries of letter carriers; which were referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of the Woman's Christian Temperance Union of Huron County; of the Young People's Society of Christian Endeavor of Greenwich, and of sundry citizens of Peru, Norwalk, Wellington, and North Fairfield, all in the State of Ohio, praying for the adoption of certain amendments to the so-called anticanteen law; which were referred to the Committee on Military Affairs.

Mr. CULLOM presented a petition of the D. Rothschilds Grain Company and sundry other business firms of Peoria, Ill., and the petition of W. O. Potter and 93 other citizens of Williamson County, Ill., praying for a reduction of the tax on distilled liquors; which were referred to the Committee on Finance.